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or Degrading Treatment
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Initial reports of States parties due in 1994

Addendum

SLOVAK REPUBLIC

[4 May 2000]

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I. INTRODUCTION

1. The Slovak Republic was founded on 1 January 1993 as a result of the split of the Czech and Slovak Federal Republic into two separate and independent States. The issue of the Declaration of the Slovak National Council on the Sovereignty of the Slovak Republic preceded its foundation.

2. At the time of the establishment of the Slovak Republic special attention was devoted to ensuring continuity and stability of the legal order as a fundamental prerequisite for the stability of state institutions and the observance of human rights. Statutes, laws and other generally binding regulations have remained in force in the Slovak Republic provided they have not been in contradiction with the Constitution (article 152, paragraph 1, of the Constitution of the Slovak Republic). All fundamental standards guaranteeing democracy, the rule of law, human rights and freedoms including international conventions to which the Czech and Slovak Federal Republic was a party on the day of its cessation have been taken over into the legal order of the Slovak Republic. The new codification of the criminal law and civil law also envisages the coverage of human rights protection.

3. From 19 January 1993 with a retroactive effect from 1 January 1993 the Slovak Republic is a Member State of the United Nations and subsequently a State party to all human rights documents signed by the former Czechoslovak Socialist Republic including reservations and statements to their provisions. The succession to the rights and duties resulting from international treaties has been regulated in article 153 of the Constitution of the Slovak Republic as follows.

4. "The Slovak Republic shall be the successor to all the rights and duties ensuing from international treaties binding on the Czech and Slovak Federal Republic to the extent fixed by a constitutional statute issued in the Czech and Slovak Federal Republic ...".

5. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter the "Convention") was signed on behalf of the Czechoslovak Socialist Republic in New York on 8 September 1986. Its text was approved by the Federal Assembly of the Czechoslovak Socialist Republic and, subsequently, ratified by the President of the CSSR. The instruments of ratification were deposited with the Secretary-General of the United Nations, the Depository of the Convention, on 7 July 1988. Based on article 27, paragraph 2, the Convention entered into force for the CSSR on 6 August 1988. The text of the Convention was published by means of a decree of the Minister of Foreign Affairs in the Collection of Laws under No. 143/1988 Coll. (Part 30, pp. 839-846).

6. The Slovak Republic became a State party to the Convention, as a consequence of the succession, on 28 May 1993.

7. Under article 19 of the Convention, the Slovak Republic as a State party to this international instrument has the obligation to submit to the Committee against Torture, through the Secretary-General of the United Nations, reports on measures they have taken to give effect

to their undertakings under this Convention. The present report submitted to the Committee for assessment has been prepared with a view to the above facts. The presented document includes both the initial report and the second periodical report of the Slovak Republic.

8. The present report has been prepared by the Ministry of Foreign Affairs of the Slovak Republic in cooperation with the Ministry of Justice of the Slovak Republic, Ministry of the Interior of the Slovak Republic, Ministry of Defence of the Slovak Republic, the Prosecution General Authority of the Slovak Republic and selected NGOs (Nadácia Charty 77, Nadácia Milana Šimečku, Slovenská únia pre mier a ľudské práva, Slovenský helsinský výbor) according to the United Nations manual with recommendations which should be considered in the content and forms of individual initial reports to international human rights United Nations conventions.

9. In the Slovak Republic torture and other cruel, inhuman or degrading treatment or punishment are considered one of the most severe violations of human rights and fundamental freedoms. Under the Constitution of the Slovak Republic fundamental rights and freedoms are inalienable, imprescriptible and irrevocable and they reflect the principles applied in the field of human rights on an international basis.

10. Since 1976 the Slovak Republic as one of the successor States of the former CSFR has been also a State party to the International Covenant on Civil and Political Rights. The Covenant was published in the Collection of Laws under No. 120/1976. Since 1991 the Slovak Republic has been a State party to the Optional Protocol to the International Covenant on Civil and Political Rights published in the Collection of Laws under 169/1991, which establishes the competence of the Committee on Human Rights to act in cases concerning the protection of rights and freedoms of the citizens of the Slovak Republic. On 22 September 1998 the Slovak Republic signed the Second Optional Protocol Aiming at the Abolition of the Death Penalty. The ratification document to it was deposited on 22 June 1999. Under its article 8 the Protocol became effective in the Slovak Republic on 22 September 1999 (published in the Collection of Laws under No. 327/1999 Coll.). The ban on the death penalty contained in the Protocol - is one of the fundamental constitutional principles stipulated in article 15 of the Constitution of the Slovak Republic according to which "everyone has the right to life". No person may be deprived of life and the death penalty is inadmissible.

11. The Slovak Republic is also a State party to other international documents in this field, e.g. Convention on the Prevention and Punishment of the Crime of Genocide (No. 32/1955 Coll.), International Convention on the Elimination of All Forms of Racial Discrimination (No. 95/1974 Coll.), International Covenant on Economic, Social and Cultural Rights (No. 120/1976 Coll.), Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (No. 53/1974 Coll.), International Convention on the Suppression and Punishment of the Crime of Apartheid (No. 116/1976 Coll.), Convention on the Elimination of All Forms of Discrimination against Women (No. 62/1987), Convention on the Rights of the Child (No. 104/1991 Coll.), and others. Based on the succession the Slovak Republic as one of the successor States of the former CSFR is also bound by the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols 1 to 8 published in the Collection of Laws under No. 209/1992 Coll. and Protocol 11 (published in the Collection of Laws under No. 102/1999).

12. The Slovak Republic has also concluded several bilateral international treaties concerning cooperation of countries in combating organized crime.

II. CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

13. The fundamental legal document for the protection of human rights is the Constitution of the Slovak Republic (hereinafter only the "Constitution" - Act No. 460/1992 Coll.) which was adopted on 1 September 1992. The Constitution also includes Statutes No. 23/1991 Coll., implementing the Bill of Fundamental Rights and Freedoms. Article 11 of the Constitution stipulates the principle of direct applicability of international human rights treaties:

> "International instruments on human rights and freedoms ratified by the Slovak Republic and promulgated under statutory requirements shall take precedence over national laws provided that the international treaties and agreements guarantee greater constitutional rights and freedoms."

14. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment is regulated in article 7, paragraph 2, of the Bill of Fundamental Rights and Freedoms:

> "(2) No person can be tortured or subjected to cruel, inhuman or degrading treatment or punishment."

15. Other pieces of legislation making up the legal framework for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are:

(a) Act No. 140/1961 Coll., the Penal Code as amended;

(b) Act No. 141/1961 Coll. on criminal court procedure (the Code of Criminal Procedure) as amended;

(c) Act No. 40/1964 Coll., the Civil Code as amended;

(d) Act No. 99/1963 Coll., the Code of Civil Judicial Procedure as amended;

(e) Act No. 38/1993 Coll. on the organization of the Constitutional Court, proceedings before it and the status of justices as amended;

(f) Act No. 314/1996 Coll. on the Prosecution Authority as amended;

(g) Act No. 156/1993 Coll. on serving pre-trial custody;

(h) Act No. 59/1965 Coll. on serving the sentence of deprivation of liberty as amended;

(i) Decree of the Ministry of Justice of the Slovak Republic No. 125/1994 Coll. issuing the Rules for Serving the Sentence of Deprivation of Liberty;

(j) Note by the Ministry of Defence of the Slovak Republic No. 322/1993 Coll. on the issue of Ordinance issuing the rules for serving the sentence of deprivation of liberty in a military correctional unit as amended in Act No. 351/1997 Coll., the Conscription Act;

(k) Act No. 79/1992 Coll. on the Corps of Prison and Court Guard of the Slovak Republic as amended;

(l) Act No. 370/1997 Coll. on military service;

(m) Act No. 207/1995 Coll. on civilian service as amended in Act No. 387/1996 Coll.;

(n) Act No. 124/1992 Coll. on military police;

(o) Act No. 171/1993 on the Police Corps as amended;

(p) Act No. 73/1998 Coll. on civil service of the members of the Police Corps, Slovak Intelligence Service, the Corps of Prison and Court Guard of the Slovak Republic and the Railway Police as amended;

(q) The Code of Conduct of a Member of the Police Corps of the Slovak Republic;

(r) Act No. 277/1994 Coll. on health care as amended;

(s) Act No. 1980/1996 Coll., the Customs Act as amended;

(t) Act No. 73/1995 Coll. on the residence of aliens as amended in Act No. 70/1997 Coll.;

(u) Act No. 279/1993 Coll. on school facilities;

(v) Act No. 94/1963 Coll. on the family as amended;

(w) Decree of the Ministry of Justice of the Slovak Republic No. 359/1996 Coll. on the organization and provision of health care in the Corps of Prison and Court Guard of the Slovak Republic;

(x) Ordinance of the Ministry of the Interior of the Slovak Republic No. 63/1998 on police cells.

III. COMPETENT STATE BODIES

16. General courts, police bodies and bodies of state administration are vested with the competencies for cases regulated in the Convention. The organization, regime of work and status of these bodies are stipulated in separate laws. In compliance with article 1 of the Convention public officials or other persons acting in an official capacity or at their instigation of

or with their consent are obliged to observe the rules of their work while acting. In all cases the honour, dignity and repute of citizens must be respected. Violations of imposed duties are classified as abuse of authority in the Penal Code of the Slovak Republic (sect. 158).

A. Organization and jurisdiction of the courts of the Slovak Republic

17. One of the fundamental constitutional principles is the right to judicial and other legal protection. As stipulated in article 46 of the Constitution any person may claim his or her right at an independent and impartial court and in cases stipulated by law at another body of the Slovak Republic. Conditions for judicial and other legal protection shall be regulated in a separate law.

18. Under article 47 of the Constitution every person has the right to legal assistance in proceedings before courts or other state bodies or public administration bodies from the onset of proceedings under conditions regulated by law. All parties to the proceedings are equal. The accused has the right to a period of time and possibility to prepare his/her defence and to be defended by himself/herself or defence counsel. Every person has the right to have his/her case tried publicly without unreasonable delay, to be present at the proceedings and to present his/her position to all evidence taken. Law only can stipulate which action constitutes a crime and what sentence or other measures restricting the rights or property can be imposed for committing them. Culpability of an action is determined and sentence is imposed according to the laws valid at the time when the offence was committed. A more recent law shall be used when it is more beneficial for the perpetrator. A court only decides on guilt and sentence for criminal offences.

19. Justice in Slovakia is administered by impartial and independent courts. Judges are independent in their decision-making and they are bound only by law and/or international treaty. The court system in Slovakia is composed of the Supreme Court of the Slovak Republic and other courts.

20. District courts decide as courts of the first instance provided a special law, i.e. the Code of Criminal Procedure or the Code of Civil Judicial Procedure, does not stipulate otherwise. An authorized person can file an appeal against the decision reached by the first instance court with the regional court which decides as the court of the second instance provided a special law does not stipulate otherwise. Laws regulating proceedings before a court stipulate which cases shall be decided by a regional court as the court of the first instance.

21. The supreme judicial body is the Supreme Court of the Slovak Republic. According to section 16 of the Act on Courts and Judges (No. 335/1991 Coll.) it is the responsibility of the Supreme Court of the Slovak Republic to provide for a uniform interpretation and uniform application of laws. The Supreme Court also decides on ordinary and extraordinary remedies against the decisions made by district, regional and military courts in cases stipulated by laws on proceedings before courts.

22. The independent judicial body vested with the protection of constitutionality is the Constitutional Court of the Slovak Republic which decides on the compliance of generally binding pieces of legislation with the Constitution, statutes and international treaties promulgated in the way stipulated for the promulgation of laws.

23. Under article 127 of the Constitution the Constitutional Court decides on applications against final decisions made by the central bodies of state administration, local bodies of state administration and bodies of local self-government, which violated fundamental rights and freedoms of citizens unless the protection of such rights falls under the jurisdiction of another court.

24. The organization of the Constitutional Court of the Slovak Republic, its responsibilities and the status of its justices are regulated in a special law (Act of the National Council of the Slovak Republic No. 38/1993 Coll. as amended).

B. Organization and responsibilities of the bodies of public administration of the Slovak Republic

25. The bodies of public administration (administrative bodies - district authorities, regional authorities, ministries and other central bodies of state administration) also decide about the rights, law protected interests or obligations pursuant to Act No. 71/1967 Coll. on the administrative procedure (the Code of Administrative Procedure).

26. In the proceedings the administrative bodies follow the laws and other regulations. They are obliged to deal with each case, which is a matter of proceedings, thoroughly and in a competent way, early and without undue delay and to use the most appropriate means of bringing the case to a proper settlement.

27. The administrative body has the duty to determine accurately and fully the real merits of the case and to acquire necessary documentation for decision. In simple cases, in particular in such where it is possible to decide upon documentation submitted by the parties to the proceedings the administrative body has the duty to decide immediately. In other cases the administrative body has the obligation to decide not later than 30 days and in particularly difficult cases it shall decide not later than 60 days from the commencement of the proceedings at the latest.

28. Under article 46 of the Constitution anybody who claims to suffer wrong in his rights through a decision made by a body of public administration may go before a court to have the lawfulness of such decision reviewed unless otherwise provided by law. However, the review as to the decisions concerning fundamental rights and freedoms must not be excluded from the jurisdiction of courts. Part 5 of the Code of Civil Judicial Procedure regulates the review of decisions made by bodies of public administration.

29. A party to the proceedings has the right to appeal the decision made by an administrative body as an ordinary remedy. Regional courts have substantive jurisdiction to review lawfulness of decisions made by an administrative body and in cases provided for by law it is the Supreme Court of the Slovak Republic. In administrative judiciary the lawfulness of decisions made by bodies of public administration is, under section 244 of the Code of Civil Judicial Procedure of the Slovak Republic, reviewed upon applications or remedies.

C. Organization and responsibilities of the Prosecution Authority of the Slovak Republic

30. The responsibility of the Prosecution Authority is to protect the rights and law-protected interests of natural persons and legal entities and the State. Under section 3 of Act No. 314/1996 on the Prosecution Authority as amended, the Prosecution Authority as a law protection agency has the duty to implement measures preventing, detecting and removing violations of lawfulness within the scope of its jurisdiction in order to restore violated rights and to determine responsibility. In the exercise of its competence it is obliged to use all lawful means as to provide for consistent, effective and fast protection of rights and law-protected interests of natural persons, legal entities and the State.

D. Organization and responsibilities of the Police Corps of the Slovak Republic

31. Another body exercising competencies in matters regulated under the Convention is the Police Corps. The Police Corps is an armed security corps performing tasks in the field of public order and security. In its responsibilities it follows the Constitution, statutes and other generally binding pieces of legislation. Its activity is overseen by the National Council of the Slovak Republic and the Government. The tasks, organization and management of the Police Corps are regulated in a special law - Act No. 171/1993 Coll. on the Police Corps as amended.

IV. IMPLEMENTATION OF INDIVIDUAL ARTICLES OF THE CONVENTION

Article 2: Legislative, administrative, judicial or other measures to prevent acts of torture

32. The Slovak Republic has adopted, in compliance with article 2 of the Convention, effective legislative, administrative, judicial and other measures to prevent acts of torture in any territory under its jurisdiction.

33. The Constitution, which is the fundamental law of the State, stipulates in its article 16, paragraph 2:

> "No person shall be subjected to torture or cruel, inhuman or degrading treatment or punishment."

34. This provision is reflected in the whole legal order of the Slovak Republic.

Section 263

War atrocities

(1) Any person, who in the wartime violates the rules of international law by inhuman treatment of helpless civilian population, refugees, wounded persons, members of the armed forces who have laid down their arms or prisoners of war, shall be liable to a term of imprisonment of 3 to 10 years.

(2) The same sentence shall be imposed on any person, who in the wartime violates the rules of international law by:

(a) Failing to take effective measures for the protection of persons who are in need of such help, in particular children, women and wounded persons, or who prevents such measures being taken, or

(b) Impedes or blocks civil protection organizations of the enemy, of a neutral or other State in the fulfilment of their humanitarian tasks.

(3) The offender shall be liable to a term of imprisonment of 8 to 15 years or to a life imprisonment sentence if he causes, through the commission of the offence referred to in paragraphs (1) or (2), serious bodily harm or death.

35. Similarly, section 263 qualifies the persecution of population as a criminal offence:

Section 263a

Persecution of the population

(1) Any person, who in the wartime or during an armed conflict implements the policy of apartheid or performs other inhuman acts on the grounds of racial discrimination or who terrorizes helpless civilian population by violence or the threat of violence, shall be liable to a term of imprisonment of 3 to 10 years.

(2) The same sentence shall be imposed on any person, who in the wartime:

(a) Destroys or seriously damages the source of elementary necessaries of life of the civilian population in an occupied territory or buffer zone, or who wilfully refuses to provide the population the assistance they need for their survival,

(b) Delays without justifiable reasons the return of the civilian population or prisoners of war,

(c) Resettles without justifiable reasons civilian population of the occupied territory,

(d) Settles the occupied territory with the population of his own country, or

(e) Wilfully denies the civilian population or prisoners of war the right to have their wrongdoing decided by impartial courts.

(3) The offender shall be liable to a term of imprisonment of 8 to 15 years or to a life imprisonment sentence if through the commission of the offence referred to in paragraphs (1) or (2) he causes serious bodily harm or death or other exceptionally serious consequence.

36. An attempt, aiding and abetting and participation in these crimes is also a criminal offence. Legislative regulation of the merits of these crimes is based on Geneva Agreements on

the protection of the victims of war and the improvement of the fate of the wounded and sick members of armed forces in the field, the treatment of prisoners of war and the protection of civilians in time of war.

37. Under paragraph 3 of this article of the Convention an order from a superior officer or a public authority is not a reason for a justification of offender's excuse. According to the interpretation by the Constitutional Court of the Slovak Republic only such procedure by state bodies which takes into account constitutional principles is the materialization of legal certainty an inseparable part of a state with the rule of law. Under article 2, paragraph 2 of the Constitution state bodies may act solely in conformity with the Constitution, within its limits, scope and procedures determined by law.

A. Measures to prevent acts of torture in the jurisdiction of the Police Corps

Jurisdiction of the Police Corps

38. The jurisdiction of the Police Corps as an armed security corps fulfilling tasks in the field of public order and security is regulated in Act No. 171/1993 Coll. on the Police Corps as amended. Under section 2 of this piece of legislation the Police Corps participate in the protection of life, health and security of persons and the protection of property, detects crime and finds their perpetrators, investigates crime and checks communications on facts alleging the commission of a crime, and on other petitions of criminal prosecution, combats terrorism and organized crime, detects misdemeanours and their offenders, and when so regulated under a special law (Act No. 372/1990 Coll. on misdemeanours as amended) also investigates and hears misdemeanours.

39. While on duty the policeman is obliged to regard the honour, respect and dignity of the person and his own and shall not allow any unreasonable detriment to be caused to the person in the context of his work and any necessary interference with his rights and freedoms not to exceed the scope necessary to achieve the purpose of his official activity. A policeman on duty is obliged to act within the law when a crime or misdemeanour is committed or when there is justified suspicion of its being committed.

Use of coercive means

40. While fulfilling the tasks resulting from the law the policemen have the right to use coercive means specified in section 50 of this Act (i.e. hugs, slugs, handcuffs, firearm strokes, threat of use of arms, a warning air shot, arms, etc.). The policeman decides on the use of the particular coercive means according to the actual situation. The application and intensity of use, however, must always correspond to the circumstances and they can be used only in cases defined by law. Before using these means the policeman has the obligation to call the person against whom he is acting to cease the unlawful action and to warn the person that one of coercive means will be used. Such a call and warning can be omitted only when the policeman himself is attacked or his life or health or those of another person is threatened and the matter cannot be deferred or other circumstances hinder it. The quoted act and its provision clearly stipulate the powers of a policeman to apprehend a person, foreigner, seize an item, take identifications, take away weapon, ban access to a certain place, etc. All these institutes and also

other ones of the law as stipulated in the last amendment of the Police Corps Act (No. 353/1997 Coll.) are a firm foundation for the protection of the rights and freedoms of all persons in the territory of the Slovak Republic.

41. Section 158 of the Penal Code covering the crimes of abusing the position of a public official provides for the protection against abuse of coercive means by the members of the Police Corps. Under its obligation to oversee the observance of lawfulness in police cells the Prosecution Authority pays special attention to the use of coercive means and detecting injuries caused by their use.

42. In the inspection of direct service due attention is paid to the observance of provisions of the Police Corps Act including the knowledge, conditions and way of using coercive means, i.e. the knowledge the policemen acquired during their study at sectoral specialized schools. Inspection of individual police services is included into the planning documents at individual levels of management. Increased attention is paid to the public order police, in particular the district departments of the Police Corps because these policemen are the first contact with the citizens and the perpetrators of various crimes.

43. In 1996 the Ministry of the Interior of the Slovak Republic and the Ministry of Justice of the Slovak Republic signed Agreement on Co-operation Between the Inspection Service Office of the Police Corps and the General Directorate of the Corps of Prison and Court Guard. This agreement regulates issues concerning the reporting of injuries of accused and sentenced persons in cases when these persons state that the injuries were caused by members of the Police Corps as well as reporting of ill-treatment cases committed by the members of this corps during apprehension. In the period since the signing of this agreement on co-operation the Inspection Service Office of the Police Corps has processed 196 cases. Out of this number 56 cases were tabled after police examination under section 159, paragraph 1 of the Code of Criminal Procedure of the Slovak Republic as the matter did not concern suspicion of crime. The Inspection Service Office documented crime committed by policemen in six cases where excessive power against citizens was used. The documentation was forwarded to the competent Regional Investigation Offices of the Police Corps with a proposal to initiate prosecution. In nine cases the investigation has not been concluded yet. According to the statistics of the state bodies of the Slovak Republic those who mainly complain of use of violence by members of the Police Corps were persons accused of or sentenced for violent criminal offences, persons who already had conflicts with the law in the past, and whose statements aimed to find a pretext for avoiding prosecution and to mislead authorities active in criminal proceedings.

B. Measures in the jurisdiction of the Armed Forces of the Slovak Republic

44. The Constitution of the Slovak Republic regards the defence of the Slovak Republic an honourable privilege of every citizen, however, in its article 25 it also stipulates that no person may be forced to perform military service if it is contrary to his conscience or religious faith. Detailed regulation is stipulated in the National Council of the Slovak Republic Act (No. 207/1995 Coll.) on civilian service. Under section 1, paragraph 1 of this law the civilian service is a specific type of service the citizen subject to service duty must serve when he refuses, on the grounds of a conflict with his conscience or religious faith, to serve mandatory military service or a substitute service or military exercises, in compliance with this law.

45. Under article 54 of the Constitution, the law may restrict civil rights of members of armed forces and armed corps (the right to strike, petition right, right of assembly, right of association into political parties). In sections 5, 6 and 7 of the newly adopted Act No. 370/1997 Coll. on military service the restriction of some constitutional rights of military are stipulated concretely.

46. Part 10 of the Military Service Act has the title "Care for Soldiers". Section 139, paragraph 1 of this law stipulates that a soldier has the right to the protection of human dignity in service and in personal contact with a service body, superior military and other militaries. Section 74, paragraph 3 of this Act stipulates that a military order must not be issued in contradiction with the Constitution, statutes, laws, other generally binding pieces of legislation and internal normative acts. The Military Service Act, thus, respects the Constitution which guarantees the protection of human dignity, personal honour and other fundamental rights and freedoms as well as the right to judicial and other legal protection.

47. The prohibition of the death penalty stipulated in article 15, paragraph 3 of the Constitution applies in its full scope also to crimes committed by military in peace times and also under alert readiness of the State and in wartime. Title XII of the Penal Code of the Slovak Republic provides for the protection of the person of a military against any manifestations of inhuman or degrading treatment. Its provisions cover unlawful acts dangerous to the society, which represent the violation of the rights and protected interests of soldiers (sections 277-279b provide for protection of military against violence and against the breach of rights and law protected interests of military).

48. Placing in the department for serving disciplinary sentences can be considered the only out-of-court restriction of soldier's personal freedom, which is in compliance with section 79 and section 80 of the Military Service Act. A conscript, in substitute military service and soldier in the upgrading service with a rank of a "private" can be given the above disciplinary sentence of not more than 21 days for a disciplinary violation; a non-commissioned officer serving mandatory military service and a non-commissioned officer serving the upgrading service can be give a disciplinary sentence of not more than 14 days. Other military ranks cannot be given this disciplinary sentence. The scope of disciplinary powers of service bodies and superior military is enumerated in the Basic Rules of Armed Forces in the Slovak Republic. This internal regulation emphasizes the protection of soldier's personhood several times. As article 40 ("general duties of commanders") stipulates a commander is responsible for the observance of valid legislation, respect of rights and justified interests of soldiers, their human rights and freedoms.

49. Similar measures also apply to the military Supervision Bodies, Public Order Patrols and units of Military Police. The operation of this corps is stipulated in Act No. 124/1992 Coll. on Military Police. Under section 5 of that regulation a military policeman, while on duty, is obliged to regard the honour, respect and dignity of persons and himself and shall not allow any unreasonable detriment to be caused to the persons in the context of his work and any necessary interference with their rights and freedoms not to exceed the scope necessary to achieve the purpose of his task.

50. On 29 September 1994 "The Concept of the Creation and Implementation of Military Chaplain a Religious Service in the Armed Forces of the Slovak Republic" was adopted by the Government in the context of the tasks of the Ministry of Defence of the Slovak Republic. From 1995 this service constitutes an organizational element under the competence of the Ministry of Defence of the Slovak Republic and it is under the Military Chaplains Office. The implementation of the military spiritual and religious service into the armed forces of the Slovak Republic supports the dissemination and enforcement of the abolition of torture and other cruel, inhuman or degrading treatment or punishment under the conditions of the armed forces.

C. Measures to prevent acts of torture in the field of health care

51. Provision of health care is regulated under Act No. 277/1994 Coll. on health care as amended. In compliance with section 13 of this regulation examination and treatment are performed only with the consent of the patient. If the patient, despite being duly informed, refuses necessary medical care the medical doctor requires from the patient a statement of refusal in writing or other demonstrable form. Such an examination or treatment can be performed without a patient's consent only when it is a necessary and urgent action and it is not possible to get the patient's consent or the consent of his representative at law, of the court or an expert medical consultation.

Care without patient's consent

52. Examination and treatment including institutional health care can be also performed when it is impossible to require the patient, due to his health condition, or the patient's representative at law to give consent, however, such consent may be assumed. Prosecutors oversee observance of lawfulness in places of institutional and protective medical treatment as a part of their regular inspection responsibility. Prosecutors from district prosecution authorities perform quarterly and prosecutors from regional prosecution authorities half-yearly regular checks in health care facilities. This inspection focuses on the review of conditions under which the patient was received in the establishment and whether when he/she was placed there not from his/her will the facility filed a motion to have the patient received without his consent.

53. Under section 14 of Act No. 277/1994 Coll. a patient may be received in a health care facility without his/her consent if his/her disease requires mandatory treatment when the patient shows symptoms of a mental disease or because its impact represents a threat to himself/herself or his/her surrounding or there is a danger of serious worsening of his health or he/she is suffering from a condition in which vital functions are imperilled and life-saving interventions and continuous monitoring of vital functions are necessary. In case a patient is received into institutional care without his/her consent the health care facility has the obligation to report this fact to a court within 24 hours and the court shall decide on the lawfulness of grounds for admission into the health care facility.

Provision of psychiatric care

54. In compliance with article 17, paragraph 6 of the Constitution and section 38 of the Health Care Act examination and treatment under psychiatric care are performed with the consent of the patient, his/her representative at law or tutor. The consent of an expert panel and

of a court are necessary to perform exceptionally serious psychiatric interventions. A patient may be transferred without consent into a psychiatric institution only in the above cases and such a measure must be reported to a court within 24 hours. Under article 17, paragraph 7 of the Constitution the examination of the mental condition of a person accused of a criminal offence is possible only upon a written court order.

Provision of health care to persons suffering from alcohol or other habit-forming drug addiction

55. Persons suffering from alcohol or other habit-forming drug addiction are provided health care when their health condition requires it. In case a court imposes protective treatment these persons are obliged to undergo treatment when this treatment could not usually be administered during their serving the sentence of deprivation of liberty.

Verification of new medical knowledge on humans

56. Verification of new medical knowledge can be performed on humans only when it presents no threat to the life or health of the person participating in the verification. If such a threat occurs during verification the verification process must be immediately stopped. Verification may be performed only on the basis of a written or otherwise demonstrable consent by the patient who is older than 18 years of age and has full legal capacity. The patient must be fully instructed on all medical actions and possible risks to his/her health. In case of verification in healthy persons or persons suffering from a disease different from the one under verification this cannot be performed in pregnant women, minors and people stripped of legal capacity, human foetuses and embryos, persons in pre-trial detention or serving the sentence of deprivation of liberty, soldiers or persons under civilian service and aliens. The pertinent health care facility is liable for damage caused during verification.

Extraction and transfer of tissue and organs

57. Extraction may be performed only when the donor has a full legal capacity and expressed his/her consent with such an extraction in writing. The donor may withdraw his/her consent anytime before extraction. Extraction may be carried out only after assessment by an expert panel. No extraction can be performed when threat to donor's health may be expected even when a written consent was given. Neither can extraction be performed in case the donor is serving a sentence of deprivation of liberty. Paid transfer of organs from the body of a living donor in order to implant them in recipient's body or paid extraction for other purposes are prohibited.

Article 3: Protection of persons against expulsion to another State where there is danger of being subjected to torture

58. As stipulated in article 53 of the Constitution, the Slovak Republic grants asylum to aliens persecuted for the exercise of political rights and freedoms. Asylum may be denied only to those who acted in contradiction with fundamental human rights and freedoms. The commitment of a State party not to expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being

subjected to torture has become a part of the legal order of the Slovak Republic by adopting Act of the National Council of the Slovak Republic No. 283/1995 Coll. on refugees with effect as of 1 January 1996. This piece of legislation stipulates in section 8, paragraph 8 that no person applying for refugee status in the Slovak Republic may be extradited or returned to the borders of a country in the territory of which he/she would be exposed to the danger of torture, inhuman treatment or death penalty on the grounds of race, ethnicity or religion or on the grounds of holding certain political views or on the grounds of being a member of a certain social group. The above facts do not apply only in cases where there are serious grounds to believe that the person concerned could be a threat for the Slovak Republic or when the person concerned has been convicted with a final judgement of an exceptionally severe intentional criminal offence (which crimes are considered exceptionally severe according to the legal order of the Slovak Republic is defined in section 41, paragraph 2 of the Penal Code).

59. Since 24 February 1992 the Slovak Republic has been a State Party to the Convention relating to the Status of Refugees (published in the Collection of Laws of the Slovak Republic under No. 319/1996). Article 33 of this international instrument stipulates the commitment of the Slovak Republic not to expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. This provision, however, does not apply to refugees whom there are reasonable grounds for regarding as a danger to the security of the Slovak Republic or who were convicted by a final judgement of a particularly serious crime constituting a danger to the community. The Slovak Republic as a State party to the Convention has fully respected this commitment.

60. Non-extradition of a person failing to satisfy the requirements for granting refugee status is guaranteed in Act No. 73/1996 Coll. of the National Council of the Slovak Republic on the stay of aliens in the territory of the Slovak Republic as amended (for the purposes of this law any person who is not a citizen of the Slovak Republic according to the country's laws is an alien). The purpose of this legislation is to determine conditions for the entry and stay of aliens in the territory of the Slovak Republic. The law does not apply to foreigners who applied for refugee status or who were granted refugee status in the territory of the Slovak Republic. A foreigner may enter the territory of the Slovak Republic and stay there only when having a valid passport and visa if not provided otherwise in an international treaty binding for the Slovak Republic. An alien entering the territory of the Slovak Republic without authorization or staying in the territory of the Slovak Republic without proper authorization can be expelled. When alien's authorization for stay in the territory of the Slovak Republic expires, an appropriate period, however not more than 30 days, may be given to leave the country. An alien who was not granted permission to enter the territory of the Slovak Republic or who is staying in its territory without authorization can be exceptionally granted a short-term stay if there are mainly humanitarian reasons for this and the non-granting of stay would mean a too harsh approach. Under section 15 of the Aliens Act an alien cannot be expelled from the territory of the Slovak Republic into a country where his life or freedom would be in danger on the grounds of race, religion, ethnicity, membership in a certain social group or political conviction. An alien can neither be expelled to a country where he/she has been given the death penalty or where one can assume that the pending proceedings may result in such a sentence. Neither can an alien be expelled to a country where he/she is threatened with torture.

61. Under section 20 of Act No. 171/1993 Coll. on the Police Corps as amended by Act No. 353/1997 Coll. a policeman is authorized to detain a foreigner when he is an alien who should be expelled under an enforceable decision or when a procedure on his expulsion has started and there is justified reason to believe that the alien would frustrate or obstruct the enforcement of this decision or the purpose of the procedure. The policeman is authorized to detain a person who was brought before a Police Corps department in order to have identity determined and also when there is justified reason to believe that he is an alien staying in the territory of the Slovak Republic without authorization and there is no other possibility to determine his/her identity. A detained alien may be placed into a police cell or he/she can be ordered a place of stay for a period not longer than 30 days.

62. One important issue concerning the alien issue has been resolved - it is the operation of the Holding Centre for Foreigners Illegally Staying in the Slovak Republic. This Centre started its operation officially on 10 July 1997. By opening the Centre standard conditions for the stay of aliens in the Slovak Republic have been created. The Centre has a capacity of 100 places with a prospect of housing 200 persons there. Currently, persons - aliens detained according to Act No. 171/1993 Coll. on the Police Corps - are placed there.

63. The stay of aliens in the Slovak Republic is also regulated in Decree of the Ministry of the Interior of the Slovak Republic No. 116/1995 Coll. in which is determined an amount the alien must demonstrate when entering the territory of the Slovak Republic.

64. Special attention is paid to the Reception and Refugee Centre at Gbely - Adamov. Provisions of the Geneva Convention Relating to the Status of Refugees of 1951 as well as of the Protocol Relating to the Status of Refugees (New York 1967) to which the Slovak Republic acceded (as a part of the former CSFR) without reservations and, thus, committed itself to give assistance to refugees, have been fully respected in the operation of the Centre. The provisions of this Convention are covered by Act of the National Council of the Slovak Republic No. 283/1995 Coll. on refugees. Reasons of persecution on the grounds of which the applicant for refugee status fears to return to the country of origin are determined and investigated individually in each person. The Ministry of the Interior of the Slovak Republic is the competent body to act in the refugee status determination procedure.

65. The Ministry of the Interior shall grant refugee status to an alien who has justified fear of persecution on the grounds of ethnicity, race or religion or on the grounds of political opinion or membership in a certain social group in the country of his citizenship and because of these concerns he/she cannot or does not want to return to that country. The same also applies to a stateless person who is outside the country of his/her last residence. According to Act No. 283/1995 Coll. on refugees the Slovak Republic grants temporary refuge also to aliens - the so called "de facto refugees" to protect them from a war conflict in the country of their origin or the country of their last permanent residence. The Ministry of the Interior of the Slovak Republic may also grant refugee status in the territory of the Slovak Republic for humanitarian reasons. This body shall decide on granting refugee status within 90 days. The decision in the refugee status determination procedure is served on the applicant, his/her representative at law or tutor, refugee centre and United Nations High Commissioner for Refugees Office. The applicant is informed about the decision in a language he/she understands. Under section 17, paragraph 1 of Act No. 283/1995 Coll. on refugees an alien granted refugee status shall be permitted to have

permanent residence in the territory of the Slovak Republic. Under section 18 of the Refugee Act decision granting refugee status means the acquisition by the alien of equal position with a citizen of the Slovak Republic unless provided otherwise in special regulations.

66. Men and women are placed separately in the Reception and Refugees Centre. Families are placed together. Similarly, persons with emotional or cultural ties may live together. The Centre offers rooms with six beds, separate entrance, shower and toilet. Applicants for refugee status are briefed on the conditions of their stay immediately after arrival to the Centre. Internal rules of conduct are generally available in the Slovak, Russian, French, Arabic and Persian languages. Similarly, a directory of NGOs in the Slovak Republic with addresses and the UNHCR address in the Slovak Republic are available. During their stay in this facility the applicants for refugee status may attend a Slovak language course. There is a playground for children and a smaller sports ground in the Centre. During their stay the applicants are offered social and legal services by NGOs, psychiatric and psychological assistance by local medical doctors (there is no doctor in the Centre). Currently, the Centre can house 200 persons.

67. Special care is reserved for HIV positive applicants for refugee status. As of today one such case was registered in the Centre and the person died soon after arrival.

Article 4: Ensuring that all acts of torture are offences under criminal law

68. Torture as defined in article 1 and cruel treatment as defined in article 16 of the Convention is covered by section 259a of the Penal Code as follows:

Section 259

Genocide

(1) Any person, who with the intention to destroy, in whole or in part, any national, ethnic, racial or religious group:

(a) Deliberately inflicts on the members of the group conditions of life calculated to bring about its physical destruction in whole or in part,

(b) Imposes measures intended to prevent births within the group,

(c) Forcibly transfers children of the group to another group, or

(d) Causes serious bodily harm or death to a member of such group,

shall be liable to a term of imprisonment of 12 to 15 years or life imprisonment.

(2) Anyone participating in the offence specified in paragraph (1) shall be liable to the same sentence.

69. The legislation regulating the merit of the crime of genocide as a crime against humanity is based on the International Convention on the Prevention and Punishment of the Crime of

Genocide (published in the Collection of Laws of the Slovak Republic No. 32/1955 Coll.). Under the legal system of the Slovak Republic the culpability of this crime expires through active repentance.

Section 259a

Torture and other inhuman and cruel treatment

(1) Any person, who in connection with the exercise of his powers of the official of a State authority or local government body, causes another person physical or mental suffering by ill-treatment, torture or other inhuman and cruel treatment, shall be liable to a term of imprisonment of one to six months, or to a sentence of the ban on professional activity.

(2) The offender shall be liable to a term of imprisonment of one to five years if:

(a) He commits the offence referred to in paragraph (1) as a public official,

(b) He commits the offence referred to in paragraph (1) in association with at least two more persons,

(c) He is committing the offence referred to in paragraph (1) over a longer period of time.

(3) The offender shall be liable to a term of imprisonment of 5 to 10 years also if through the commission of the offence referred to in paragraph (1) he causes serious bodily harm.

(4) The offender shall be liable to a term of imprisonment of 8 to 15 years if through the commission of the offence referred to in paragraph (1) he causes death.

70. Torture and other cruel, inhuman or degrading treatment or punishment is also covered by the tenets of the crime of genocide, ill-treatment of a person in the offender's charge, extortion and abuse of office.

Section 215

Ill-treatment of a person in one's charge or care

(1) Any person, who ill-treats a relative or person who is in his care or charge, causing him physical or mental suffering:

(a) By repeated beating, or unjustified locking up, or by causing excessive fear or stress, or by other improper or unjustified punishment,

(b) By repeated and unjustified denial of food, basic clothing, elementary hygiene, health care or housing,

(c) By forcing to beggary or to a repeated performance of activities causing excessive physical strain for the person considering his age, health condition, or the degree of his physical or mental development, or to performing other activities that are detrimental to human health, or

(d) By repeated or excessive exposure to the effects of substances that are detrimental to the health of humans,

shall be liable to a term of imprisonment of one to five years, or to a sentence of the ban on professional activity.

(2) The offender shall be liable to a term of imprisonment of 3 to 10 years if he commits the offence referred to in paragraph (1):

(a) In a very brutal manner, against several persons.

(3) The sentence set out in paragraph (2) shall be imposed on the offender if through the commission of the offence referred to in paragraph (1) he breaches a specific duty arising from his employment, or a duty he has specifically pledged to fulfil or if he continues committing such offence over a longer period of time.

(4) The offender shall be liable to a term of imprisonment of 10 to 15 years if he causes serious bodily harm or death through the commission of the offence referred to in paragraph (1).

71. According to relevant interpretation ill-treatment is such treatment of a person in charge of, which manifests higher level of insensitivity and ruthlessness over a period of time. The person who is in the care or charge of the offender can be a minor or an adult in need of care by another person because of old age, disease, physical handicap, mental retardation or disorder.

Section 235

Extortion

(1) Any person, who forces another person by violence, threat of violence or threat of other serious harm to do anything, omit doing or to endure anything being done, shall be liable to a term of imprisonment up to three years.

(2) The offender shall be liable to a term of imprisonment of two to eight years:

(a) If he commits the offence referred to in paragraph (1) in the capacity of a member of an organized group,

(b) If he commits such offence using a weapon,

(c) If he causes serious bodily harm or extensive damage, or

(d) If he commits such offence against a witness, expert or interpreter in the context of performance of their duties.

(3) The offender shall be liable to a term of imprisonment of 5 to 12 years:

(a) If he commits the offence referred to in paragraph (1) with an organized group active in several countries, or

(b) If he causes death or extensive damage through the commission of the offence referred to in paragraph (1).

Section 158

Abuse of power by a public official

(1) A public official who, with the intention to cause damage to another person, or to obtain unjustified benefit for himself or other:

(a) Exercises his powers in contravention of the law, or

(b) Oversteps his powers, or

(c) Breaches a duty vested in him in connection with his powers,

shall be liable to a term of imprisonment of between six months to three years, or to a pecuniary penalty, or to a sentence of the ban on professional activity.

(2) An offender shall be liable to a term of imprisonment of 3 years to 10 years:

(a) If he obtains through the offence referred to in paragraph 1 for him or other significant benefit,

(b) If he causes through such offence serious disorder in the operation of an enterprise or organization, or

(c) If he causes through such offence substantial damage or another exceptionally serious consequence.

72. In all the crimes mentioned above the attempt is also a crime as it constitutes behaviour damaging for the society and aiming at the commission of the crime when commission did not occur. An attempt is punishable according to the sentences determined for an accomplished crime. Similarly, the penal sentences apply to aiding and abetting as well as participation in an accomplished crime.

73. At the same time neither an order by the superior nor by a State authority can be a reason for justification of the offender in all the above crimes.

Article 5: Establishment of judicial jurisdiction of the Slovak Republic

74. The jurisdiction of the courts of the Slovak Republic to try all the above crimes is regulated in the Code of Criminal Procedure (Act No. 141/1961 Coll.).

75. Under section 17 of the Penal Code, culpability for a crime committed on the territory of the Republic shall be judged according to the criminal law of the Slovak Republic. The criminal offence is considered as committed on the territory of the Republic if the offender performed the action on the territory of the Slovak Republic, even if the actual breach of or threat to an interest protected by law took place or was intended to take place, in whole or in part, in a foreign country. The criminal offence is considered as committed on the territory of the Republic, even when the offender violated or threatened an interest protected by law on the territory of the Slovak Republic or if such effect was intended to take place, in whole or in part, on the territory of the Republic although he performed the action in a foreign country. Slovak legislation is also applied to determine criminal liability for an offence committed aboard a vessel navigating under the State flag of the Slovak Republic or aircraft bearing the national emblem of the Slovak Republic outside the territory of the Republic (the principle of territoriality).

76. Slovak legislation is also applied to determine criminal liability for an offence committed abroad by a national of the Slovak Republic, or a stateless person with permanent residency on the territory of the Slovak Republic, or a foreign national with permanent residency on the territory of the Slovak Republic (the principle of person). A final conviction of a Slovak national by a foreign court for the same offence is not an obstacle for his/her prosecution by the authorities of the Slovak Republic (it is not a res iudicatae obstacle). Under section 172, paragraph 2 letter (b) of the Code of Criminal Procedure, however, this fact may present a reason to stay prosecution when the decision issued by a foreign body can be considered sufficient.

77. Culpability of some crimes is judged according to the legal order of the Slovak Republic also when such crime was committed abroad by a foreign national or a stateless person who is not an inhabitant of the Slovak Republic (the principle of protection). The list of these crimes is enumerative (section 19 of the Penal Code - subversion of the Republic, terrorism, sabotage, espionage, war atrocities, persecution of civilian population, and other), i.e. in other crimes the jurisdiction of the bodies of the Slovak Republic for crimes committed abroad by a foreign national or a stateless person without a permanent residency on the territory of the Slovak Republic is excluded.

78. Under the legal order of the Slovak Republic the culpability of an act committed abroad by a foreign national or by a stateless person having permanent residency on the territory of the Slovak Republic is judged also when such act gives rise to criminal liability also under the legislation effective on the territory where the act was committed, and the offender was apprehended on the territory of the Republic and was not extradited to a foreign State for criminal prosecution purposes - section 20 of the Penal Code (the principle of universality). However, the offender cannot be given a more severe sentence than the punishment allowed by the law of the State on the territory of which the criminal offence was committed. Extradition of offenders abroad is regulated in treaties on legal assistance in criminal cases, which are binding for the Slovak Republic.

79. Culpability of a crime is judged according to the Slovak law also when it is so stipulated in an international treaty binding for the Slovak Republic (section 20a of the Penal Code). Provisions of the Penal Code regulating the competence of agencies active in criminal procedure create conditions for the establishment of the so-called international element in criminal law relations which allows to apply Slovak jurisdiction also outside the territory of the Slovak Republic, its application to foreign nationals and stateless persons who have no residency in the Slovak Republic and also for crimes committed abroad. This also allows an adequate response by the countries whose interests might be affected by the mutual application of their jurisdiction. The reason for such legislation is also the common interest of States to sentence negative phenomena which are a threat to all countries (e.g. combating slavery, trafficking in women, children, international terrorism, the crime of genocide).

80. Under section 21 of the Penal Code nationals of the Slovak Republic may not be extradited to a foreign State for criminal prosecution or for the execution of a sentence. Sentencing judgements given in a foreign country cannot be enforced nor take other effect on the territory of the Slovak Republic unless a promulgated international instrument which is binding for the Slovak Republic states otherwise. Amendment of the Code of Criminal Procedure published as Act No. 272/1999 Coll. stipulates that Slovak nationals may be extradited only upon a request of an international court of justice established under an international treaty binding upon the Slovak Republic or upon a decision binding for the Slovak Republic of an international organization. Extradition procedure is governed by the provisions of Chapter XXIV of the Code of Criminal Procedure of the Slovak Republic ("Legal Contacts with Foreign Countries").

81. The legal order of the Slovak Republic guarantees each person against whom proceedings have been opened fair treatment at all stages of the proceedings in compliance with article 7, paragraph 3 of the Convention. The basic framework is defined by the Constitution which in its article 46 stipulates that every person may claim his or her right by procedures established by law at an independent and impartial court of law or other public authority of the Slovak Republic in cases specified by law. Details are regulated in a separate regulation, Act No. 141/1961 Coll. on criminal court proceedings (Code of Criminal Procedure) as amended.

82. The purpose of the Code of Criminal Procedure is to regulate procedures used by the bodies active in criminal proceedings to ensure that criminal offences are properly investigated and their perpetrators justly punished under the law. The proceedings shall also strengthen the rule of law, prevent and suppress criminal activity, educate citizens to consistently abide by the law and the rules of civil coexistence and to honestly fulfil their duties to the State and the society (sect. 1, para. 1). The citizens have the right and, under the provisions of the Act, also the duty to assist in the attainment of the purpose of criminal proceedings (sect. 1, para. 2). Fundamental rights of citizens include mainly the right (and also the duty) to report criminal offences (sect. 158, para. 1), to file information on facts indicating that a crime was commissioned and be informed within one month on measures taken. Criminal cases shall be heard in open court to give the citizens a possibility to attend the hearing and to follow the trial. Public attendance may be excluded from the

main hearing and open court hearing only in cases explicitly provided for under the Act (section 2, paragraph 10 of the Code of Criminal Procedure). Fundamental duties of citizens include the obligation to be a witness in criminal proceedings, appear upon summons, to undergo body search and other acts, to produce an item important for criminal proceedings and the obligation to participate in some other procedural acts. In all cases, however, honour, dignity and repute of these persons must be respected.

83. Under section 2, paragraph 1 of the Code of Criminal Procedure of the Slovak Republic no one shall be prosecuted as accused on other than the legal grounds and in any other manner than that provided for under that Act. The principle of prosecuting on legal grounds only emanates from the wording of article 17 of the Constitution. Until a final convicting judgement reached by a court announces guilt the person against whom criminal proceedings are held cannot be considered guilty (the principle of presumption of innocence).

84. A body active in criminal procedure acquires knowledge important for the clarification of the case through the means of evidence. Anything that may contribute to the clarification of the case may serve as evidence, mainly statements made by the accused and the witnesses, expert opinions, items and documents important for criminal prosecution and reconnaissance.

85. The prosecutor has the obligation to prosecute all criminal offences he learns about; exemptions are admissible only by law or according to a promulgated international treaty. If not provided otherwise by law the bodies active in criminal proceedings act ex officio; have the duty to hear criminal cases in the most speedy way and to consistently observe civil rights guaranteed by the Constitution.

86. Bodies active in criminal procedure duly determine the real situation of the case and base their decision on it. With equal care they clarify circumstances providing evidence against the accused as well as circumstances in favour of the accused and take evidence in both directions even in the absence of such motion by the parties. Accused's confession does not remove the duty to examine and to verify with all available means all circumstances of the case from the bodies active in criminal procedure. Bodies active in criminal procedure assess evidence according to their internal conviction which they must justify and which is based on a thorough consideration of all circumstances of the case individually and together. The obligation to act in such a way as to determine the real merits of the case applies equally to the proceedings before a trial court as well as to the proceedings before an appellate court.

87. The person who is under criminal prosecution must be instructed on his/her rights allowing him/her the full use of defence and on the possibility to chose his/her defence counsel at every stage of the procedure. The principle of the guarantee of the right to defence is directly derived from the wording of article 50 of the Constitution and it is the expression of the requirement to guarantee lawful interests and rights of the person under criminal prosecution. The right to defence applies to the whole criminal prosecution. In the decision-making at the main trial, be it public or in camera, the court may consider only the evidence which was taken during this proceedings.

Article 6: Restriction of personal freedom

88. One of the basic constitutional principles in the Slovak Republic is the guarantee of integrity and privacy (article 16 of the Constitution) and personal liberty (article 17 of the Constitution). Article 16 reads:

> "The right of every individual to integrity and privacy shall be guaranteed. This right may be limited only in cases specifically provided by law."

89. According to this article no one may be prosecuted or have personal liberty taken away on other grounds than those stipulated by law or in another manner than the one stipulated by law.

90. A person whose liberty was restricted for certain reasons may be placed into a police cell, to pre-trial detention, in a correctional establishment for serving the sentence of deprivation of liberty, in a military correctional establishment, places for protective and institutional medical treatment, diagnostic centres and re-education youth homes. The conditions for placement and stay of persons in these facilities are regulated in separate regulations.

A. Placement of persons into police cells

91. Under section 19 of the Police Corps Act the members of this body have the authority to apprehend a person and place him/her into a police cell (hereinafter the "cell"). A draft amendment of Order of the Ministry of the Interior of the Slovak Republic No. 29/1992 on police cells was prepared in compliance with the recommendations of the European Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. This draft was completed after being circulated for comments at the Ministry of the Interior, Ministry of Justice and Prosecution General Authority.

92. The power of a policeman to place an apprehended person into a police cell made for this purpose at the department of the Police Corps is regulated in section 42 to section 49 of Act No. 171/1993 Coll. on the Police Corps. The policeman has also the right to place into a police cell a fugitive when there are reasonable grounds to believe that the danger of escape continues, or a person who behaves in an aggressive way against other persons or policemen, or destroys furniture or other assets. The policeman has also the right to place into the cells at the Police Corps department a person apprehended, arrested upon an arrest warrant, received by the police to make procedural steps in pre-trial detention, while serving the sentence of deprivation of liberty or which should be transferred into pre-trial custody or sentence of deprivation of liberty.

93. A person placed into a police cell is entitled to the provision of necessary medical care. If a policeman finds out that this person is injured or if this person informs him of his/her serious disease or injury the policeman has the duty to arrange medical examination and ask for medical expert opinion as to whether this person may be placed into the cell. When this person gets sick, injures himself/herself or attempts suicide the policeman guarding the cell is obliged to take measures to protect his/her life and health, in particular to give first aid and call a doctor.

94. The cell must be hygienic and appropriate for the purpose of detention. If the person placed into the cell does not have sufficient clothing, or his/her clothes do not satisfy hygiene requirements the police department at which this cell is located shall lend the person clothes. Catering is provided according to local conditions. Usually, food is given within six hours after placement into the cell.

95. The room may be equipped with audio-visual means serving as connection with the policeman who is guarding the cell. There may be no objects in the cell that could be misused to endanger the life and health of the detained person or the policeman.

96. The police cells have been furnished with additional spare clothes, blankets, toilet sets, ventilation and in order to improve technical surveillance also with TV. However, due to financial restrictions the deficiencies in the building technical area still persist.

97. The person placed in a police cell may file motion, petitions and complaints. In case they are executed in writing they are delivered to the commander of the Police Corps unit for further processing. Oral motions, petitions and complaints are written down by the policeman and submitted for further processing. The Prosecutor oversees compliance with laws in the placement and stay of persons placed in the cell.

B. Measures to prevent torture in facilities for pre-trial detention

98. Under section 67 of the Code of Criminal Procedure a person accused of committing any criminal offence can be remanded in custody. However, the law enumerates the reasons for such a detention. Paragraph 1 of section 67 includes among the facts justifying remand custody, concern that the accused may escape or hide to avoid prosecution or sentence or that he will try to influence the witnesses or co-accused or otherwise frustrate the investigation of facts relevant for criminal prosecution or he will continue in his criminal activity, accomplish the attempted crime or commit the crime he had prepared or had threatened to commit. Paragraph 2 of section 67 stipulates also another reason for custody - criminal prosecution for a crime punishable by imprisonment sentence of at least eight years.

Duration of detention

99. Under section 68 of the Code of Criminal Procedure only a person against whom charges were lodged may be placed in custody detention. Custody in pre-trial proceedings and in proceedings before a court shall not exceed two years. If, because of serious reasons, it was not possible to complete criminal prosecution by that time and if the release of the accused could frustrate or seriously prejudice the purpose of criminal proceedings, the decision on extending the custody by a maximum of another year shall be made by the Supreme Court of the Slovak Republic. An investigator, a prosecutor and a judge have the obligation to verify, at every stage of criminal proceedings, whether the grounds for custody are still present or if there was any change. If the grounds for the remand in custody are no longer present, the accused must be immediately released.

100. With respect to the duration of remand custody section 69, paragraph 4 of the Code of Criminal Procedure stipulates that the police body that made the arrest of the accused shall have to bring the accused without delay, not later than within 24 hours, before the court whose judge issued

the warrant. If this does not happen, the accused must be released. The judge before whom the accused person was brought shall hear the accused without delay, issue the decision concerning the custody and notify the accused of the decision not later than 24 hours after the accused was brought before him. If this does not happen the accused must be released.

101. A notification on the remand in custody shall be served on a relative of the accused or another person designated by the accused, and on his lawyer (section 70 of the Code of Criminal Procedure).

Pre-trial detention

102. The basic piece of legislation regulating pre-trial detention is the Act of the National Council of the Slovak Republic No. 156/1993 Coll. on remand custody. Pre-trial detention is served in pre-trial detention establishments established by the Minister of Justice of the Slovak Republic. Section 6 of that law stipulates the conditions a cell must satisfy and also the furnishing of such a cell.

103. Pre-trial detention establishments in the Slovak Republic (as of 1 December 1999):

Seat of the establishment	Capacity	Accused	Sentenced*	Σ	%
Banská Bystrica	495	289	79	368	74.3
Bratislava	630	433	122	555	88.1
Levoča	148	79	36	115	77.7
Nitra	325	279	48	327	100.6
Prešov	195	166	54	220	112.8
Prešov semi-open department	200	0	109	109	54.5
Žilina	280	158	50	208	74.3

Source: Corps of the Prison and Court Guard of the Slovak Republic.

* Persons detained in remand establishments are working in the intra-establishment operations (maintenance, cleaning, cooking, etc.).

104. According to section 2 of Act No. 156/1993 Coll. remand custody must respect the principle that any person charged with an offence shall be presumed innocent until proven guilty by a final sentencing judgement of a court. An accused may be restricted only in the way which is resulting from the purpose of detention and only on the exercise of those rights which cannot be exercised as a result of pre-trial detention. The way in which pre-trial detention is served must not humiliate human dignity of the accused.

105. The accused has the right to meet his/her defence counsel, receive and send correspondence, receive visits (once in a month, a juvenile visit of 30 minutes once in 14 days), to buy food, press, journals, books and items of individual need in the establishment store. Under the valid regulations the staff of remand establishments do not check the correspondence of persons held or detained there, however, the correspondence addressed to authorities and institutions is registered as registered mail.

106. The accused are given meals three times a day in a quantity and quality corresponding to the recommended diet. The accused is entitled to eight hours of uninterrupted sleep and he/she has the right to the creation of conditions for personal hygiene and also the right to participate in daily exercise in the determined open air area of the establishment for at least one hour. The accused has also the right to necessary medical care.

107. When the conditions of an establishment make it possible and the accused and the body active in criminal proceedings agree an accused may be working. The average employment of detained persons in the Slovak prison system was 59 per cent in the 11 months of 1999.

108. In order to have his/her rights secured an accused may file complaints and petitions with the pertinent state authorities including the President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) whose address is available to every detained person and the establishment has the duty to register these and provide for their mailing. If the accused asks for a talk with the governor of the establishment or a member of the corps commissioned by the governor it will be made possible.

109. The provisions of Act No. 156/1993 Coll. on pre-trial detention apply also to remand custody of juvenile persons while taking into account their personality and age.

Pre-trial detention of foreigners

110. Act No. 156/1993 Coll. on pre-trial detention applies to remand custody of detained foreigners. Accused foreigners shall have contact with the embassy of the country of which they are nationals made possible. They may also file their complaints and claims with this embassy. The establishment will provide information on the rules of conduct of remand custody to the accused foreigners if possible in their mother tongue.

111. The provisions of section 20, paragraph 4 of Act No. 171/1993 Coll. on the Police Corps as amended in Act No. 353/1997 make it possible for a member of the Police Corps to detain a foreigner who should be expelled upon an enforceable decision or whose expulsion proceedings have been opened and there are reasonable grounds to believe that he would frustrate or obstruct the enforcement of this decision or the purpose of the procedure. The policeman is authorized to detain a person who was brought before a Police Corps department in order to have identity determined and also in the case when there is justified reason to believe that he is an alien staying on the territory of the Slovak Republic without authorization and there is no other possibility to determine his/her identity. A detained alien may be placed into a police cell or he/she can be ordered a place of stay for a period not longer than 30 days.

112. Under the provisions of section 20, paragraph 4 a foreigner can, upon request, inform a close person or legal counsel of his/her detention. Under paragraph 5 of this provision the policeman who detained the person shall issue without delay a decision on detention which is served on the detained alien and his/her legal counsel. An appeal against a decision on an alien's detention can be filed within 15 days from the day of its delivery. This amendment has made the legal procedures by the police more transparent and at the same time is another guarantee of the rights of detained foreigners. The number of aliens placed into police cells is growing which indicates a need to establish also new reception centres in addition to the existing ones.

113. Individual correctional institutions and remand institutions do not report any problems in the work with the accused and/or convicted aliens, or language problems they would not be able to cope with themselves. Immediately after new laws and decrees regulating serving of pre-trial detention and the sentence of deprivation of liberty come into effect correctional institution rules of conduct in other languages will be issued. Similarly, cooperation with embassies is also assessed very positively.

C. Serving the sentence of deprivation of liberty

114. The basic piece of legislation which regulates serving of sentences of deprivation of liberty is Act No. 59/1965 Coll. on serving the sentence of deprivation of liberty as amended.

115. Under section 1 of this law the purpose of the sentence of deprivation of liberty is to prevent the prisoner from continuing commission of crime and preparation for it, to lead life as an orderly citizen. The way in which the sentence of deprivation of liberty is served must respect the natural dignity of a human being, cruel or degrading ways of treatment or punishment must not be applied.

116. The sentence of deprivation of liberty is served in correctional institutions, correctional institutions for juveniles and in military correctional units. The institutions are established and closed by the Minister of Justice of the Slovak Republic. Military correctional units are established and closed by the Minister of Defence of the Slovak Republic. Men and women serve the sentence separately, juveniles have separate departments from the adults and there are three levels of correctional groups. This way of serving the sentence aims to separate less distorted prisoners from those who suffer from more severe distortions while applying adequate correctional means.

117. The housing conditions for inmates serving the sentence of deprivation of liberty are defined in compliance with the general hygiene requirements and standards. The housing area in cell per an inmate must be 3.5 m^2 at least. The cells in the third level of correctional groups are furnished with sanitary facilities and a basin with potable water. Housing areas of other prisoners are usually furnished with common sanitary facilities including the basin and potable water. Clothing must correspond to the climatic and microclimatic conditions and must offer sufficient protection of health.

118. The prisoners are guaranteed eight hours of sleep, time necessary for personal hygiene, at least one hour's exercise and adequate personal free time. Prisoners may receive and send correspondence without any restriction, receive visits of close persons in a scope determined in the rules of conduct for serving the sentence of deprivation of liberty, to receive daily press, etc.

119. In order to exercise his/her rights and justified interest a prisoner may file complaints and claims with the competent body. If requested the prisoner will have it made possible to have a talk with the governor of the correctional institution, the prosecutor, judge or body inspecting the correctional facilities. The prisoner has the right to legal advice provided by a legal counsel.

120. Prisoners are allocated to work in compliance with the purpose of the sentence to selected legal entities or directly in the institution. Their health condition and possibility to use their capacity to work are taken into account. Work hours and work conditions of inmates are equal to those of other employees. A prisoner who is not allocated to work in this manner is allocated to other

publicly beneficial work in the institution or outside the institution and he/she is obliged to carry out this work in a scope of not more than four hours a day provided his/her health does not prevent them doing so.

121. Prosecutors oversee observance of law in places where the sentence of deprivation of liberty is served in compliance with the law on the Prosecution Authority. To this end the bodies of the Corps of Prison and Court Guard have the obligation to allow entry of the prosecutor to all places where the sentence is served and to talk with the inmates without the presence of a third person and then to execute prosecutor's orders concerning the observance on serving sentence, to give necessary explanations and submit documentation concerning serving the sentence.

122. Judges are also authorized to visit prisoners, to talk with them without the presence of a third person and to look into their personal files and records. The National Council of the Slovak Republic performs civil oversight over sentence serving.

123. Church organizations and civil associations also participate in the treatment with prisoners in such a way that their authorized representatives may keep personal contacts with the inmates during their serving of the sentence and help them in creating favourable conditions for their future life after their release. Correctional institutions may also organize common religious ceremonies in their free time.

Serving the sentence by juveniles

124. General provisions of the law on serving the sentence of deprivation of liberty apply to the serving of the sentence by juvenile prisoners unless that law stipulates otherwise. Juveniles under the age of 18 always serve their sentence separated from other prisoners, namely in a correctional institution for juveniles.

125. A compulsory school education age juvenile must have the possibility to attend education instead of work arranged by the institution. A board of advisers is always established in the institution to have the effect of the sentence on the juvenile deepened.

Serving the sentence by women

126. Pregnant women and women taking care of their own child under 1 year of age are excluded from sentence serving.

127. Convicted women serve their sentence of deprivation of liberty in a separate correctional institution. The way in which women above 60 serve their sentence must be appropriate for their age and health condition. Therefore they are allocated to special groups.

Serving the sentence by the handicapped

128. Prisoners having their work capacity significantly decreased or whose physical and mental condition requires it are placed into correctional institutions or departments in which their serving of the sentence is adjusted to their capabilities and condition. The work and limitations resulting from the allocation to the correctional level are not affected.

129. Material and cultural conditions of life providing for adequate physical and mental development are created for disabled inmates. The composition of and conditions of meals are determined in such a way that they are in compliance with recommended diet and consider also the work performed by the prisoner and his/her health condition.

130. The competent authorities pay great attention to the solution of the housing issue first of all in the reconstructed existing buildings and also by building new ones. Recently, the building of housing facilities in the Košice - Šaca correctional institution was completed; the reconstruction of the housing part of the pre-trial detention institution in Nitra has been finalized. Significant progress has been made in the building of the correctional institution for convicted women in Nitra - Chrenová. In 1998 a total of 165,671,111 Slovak crowns was spent on new investments, building of housing capacity, improvement of signalling and surveillance technology and the creation and protection of the environment. In 1999 a total of 172 million Slovak crowns was spent on these activities.

131. Special attention is currently being paid to the conditions in the Leopoldov Correctional Institution and the Leopoldov Remand Institution. The allocated amount of 20 million Slovak crowns made the reconstruction of a part of the building (13 million Sk - resulting in a housing capacity for 108 prisoners) and the reconstruction of the Corps of Prison and Court Guard of the Slovak Republic printing plant (6 million Sk) possible. At the same time the exercise yards have been enlarged and roofed with respect to the required security criteria. In compliance with the recommendations by the European CPT mission the institution was granted funds of 1,640,000 Sk in Resolution of the Government of the Slovak Republic No. 872 of 21 November 1995 to reconstruct the buildings destroyed during the 1990 riot. Another 1.3 million Sk were allocated for this purpose. The reconstruction work shall continue according to the budget of the Corps of Prison and Court Guard of the Slovak Republic.

132. In 1999 the situation in the departments for life sentences and exceptional sentences (sentence of deprivation of liberty from 15 to 25 years) in the Ilava Correctional Institution was also tackled because the total capacity of this department (40 persons) seems insufficient from the long-term perspective considering the trends in investigating and prosecuting severe crime. Currently, there are 11 lifers and 25 persons with exceptional sentence at the departments for life sentences and exceptional sentences of the Ilava establishment.

133. In his special order the Prosecutor General of the Slovak Republic regulated the way in which prosecutor's oversight of exceptional sentences should be performed. According to this order the prosecutor charged with the oversight of exceptional sentences must have an interview with all prisoners directly in their cells or at their workplace every second month on a regular basis. Any deficiencies found are immediately reported to the governor of the establishment and the measures adopted for correcting it are thoroughly checked. The prosecutor has also the obligation to pay permanent attention to the provision of health care and inform about the health condition of the prisoners twice a year.

134. The issue of observing the European Convention in the Slovak prison system has become an issue which all officials at all levels of management pay attention in their organizational work. Governors of individual remand institutions and correctional institutions have complete documentation on the issue. This makes it possible for them to engage those who are in direct

contact with the inmates in the fulfilment of tasks resulting from the CPT mission materials and materials from the Government in this work. Positive trends were registered in the field of relations quality between the staff and the inmates despite the increasingly deteriorating composition of the clients - the number of inmates with a history of drug addiction and serious violent crime is growing. Health care of inmates can also be assessed positively.

135. As of 1 December 1999 occupancy levels in remand institutions were 82.1 per cent and in correctional institutions - 76.0 per cent.

136. A high standard of serving the sentence of deprivation of liberty is provided in four open and semi-open departments under the Corps of the Prison and Court Guard - as of 1 December 1998 these departments had an occupancy level of 65.3 per cent.

137. Correctional institutions (situation as of 1 December 1999):

Seat of the institution	Capacity	Number of prisoners	%
Banská Bystrica	846	673	79.6
Rimavská Sobota (open and semi-open department)	48	44	91.7
Dubnica nad Váhom	497	318	64.0
Hrnčiarovce nad Parnou	850	478	56.2
Bratislava - Žabí majer (open and semi-open department)	120	70	58.3
Ilava	460	432	93.9
Košice - Šaca	664	603	90.9
Martin	413	168	40.7
Nitra - Chrenová	201	145	72.1
Ružomberok	345	238	69.0
Želiezovce	563	518	92.0

Source: Corps of the Prison and Court Guard Slovak Republic.

138. Remand institutions and correctional institutions (situation as of 1 December 1999):

Seat of the institution	Capacity	Accused	Convicted	Σ	%
Košice					
Remand institution	419	201	27	228	54.4
Correctional institution	275	0	243	189	88.4
Leopoldov					
Remand institution	366	281	45	326	89.1
Correctional institution	455	0	432	432	94.9

Source: Corps of the Prison and Court Guard Slovak Republic.

139. Other institutions (situation as of 1 December 1999):

Seat of the institution	Capacity	Accused	Convicted	%
Trenčín				
Hospital for accused and convicted	156	15	38	34.0
Institution	92	0	42	45.7
Opatovce (open and semi-open department)	50	0	47	94.0

Source: Corps of the Prison and Court Guard Slovak Republic.

D. Placing of children and juveniles into special educational facilities

140. Special educational facilities are under the competence of the Ministry of Education of the Slovak Republic. Act of the National Council of the Slovak Republic No. 279/1993 Coll. on school facilities regulates their operation. Currently the network of special educational facilities includes five diagnostic centres, seven re-education homes for children, nine re-education homes for youth and one facility for juvenile mothers with children. Under Act No. 542/1990 Coll. on state administration in the school system regional authorities are the founders of these facilities. All these facilities are subject to the inspection by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment.

141. Special educational facilities fulfil tasks in the protection of children against socio-pathological phenomena, in the prevention of distorted development of children, in the prevention of delinquent development of children and in the administration of institutional education and protective education. Social curatorial service provided social care to 7,667 children and 9,799 juveniles with behavioural disorders. Ordered institutional education was imposed on 1,078 children. Social work in field registered ordering of educational measures in 7,919 families. Counselling for other serious reasons was performed in 42,394 families.

142. Special educational facilities can be divided into facilities of educational prevention and facilities of foster education. A primary or secondary school, special school and/or classes of these schools can be opened at each of these facilities.

143. Educational prevention facilities include Centres of Educational and Psychological Prevention, Therapeutic Educational Sanatoriums and Diagnostic Centres. In these types of special facilities psychological, psychotherapeutic, educational and health care are provided to children who are placed there upon a decision made by the competent body of state administration or when their representative at law asked for it.

144. Facilities of educational prevention provide professional assistance to children from socially or educationally failing environment and children with distorted psycho-social development while having parallel co-operation with the family to improve and maintain its functions, i.e. the work of these facilities aims at the protection of children against

socio-pathological phenomena. These facilities may function as day-care facilities, night centres or as boarding schools open all year round. The therapeutic care may be provided as a treatment combined with permanent housing or on an out-door basis.

145. Another type of special educational facilities are those which provide foster education substituting natural family environment to children up to 18 years of age and/or until they complete their vocational training. Children are placed into foster education facilities upon a court decision on institutional or protective education, based on a preliminary measure or upon the request of representatives at law. These facilities operate on a continuous basis and they were differentiated according to the special educational needs of children.

146. Re-education homes for children and re-education homes for juveniles can be included into foster education facilities. The mission of these facilities is to educate children with social and moral disorders which show serious shortcomings in their social adaptability, personality features and character that their education cannot be managed by other institutions. The education in re-education homes is combined with vocational training.

147. Special educational facilities are currently undergoing a gradual change of the system of education from closed to semi-open systems. Satellite units with an open educational regime and special socializing procedures are being started. In all facilities the inmates have available a telephone coin-box or a telephone accessible upon request.

148. The choice of leisure-time activities improved - various sports groups, dancing, music, drama, fine arts groups and activities are available. In some facilities a journal with inmates' own production has started to appear. At the same time the participation of children in the annually organized sports event and country-wide exhibition of artistic works made by re-educational youth homes inmates in BIBIANA children and youth centre increased. This year, the Centre had its own musical and literary programme.

149. A significant improvement of psychological and hygiene conditions was achieved in the Re-education Home for Children in Čeranovce, where co-education with separated housing of boys and girls was introduced.

150. In the Re-education Home in Chalmová an open educational group with housing in a family house outside the premises of the facility has been established.

151. In the Re-education Home in Košice - Banková the open educational group for boys who attend various secondary schools in the city of Košice is functioning very well.

152. Very good re-educational results in the work with drug-addicted inmates were achieved in the Re-education Home for Children and Youth in Tomášov. It is the only farm-type facility in Slovakia.

153. In the Diagnostic Centre for Youth at Záhorská Bystrica two original isolation rooms were reconstructed into pedagogical isolation (currently, the area is 7.5 m^2). The room is furnished with a bed, table and chair. According to available information the room was used twice until now. While staying in the room for pedagogic isolation the inmates can have

exercise outside. There is no literature in the room because according to the view of the staff of the centre there is no interest in it. The service of the nurse was extended from the original four hours to seven hours a day. The Centre does not have any records on the use of pressure or other inappropriate behaviour of the staff to the inmates. The additional and diagnostic process in the Centre was enriched with new activities, e.g. hippotherapy in the riding club at Devínska Nová Ves, regular visits to a swimming pool, at least once a week going to theatre. The recreational rooms for inmates were furnished with computers.

154. The guidelines for educational isolation include a provision of one hour exercise in fresh air and this principle has also been observed.

155. The isolation room has been equipped according to the recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment and the inmates can read journals subscribed directly by the Re-education Home for Youth while being there. "Scotch douche" was excluded from the list of permitted educational and coercive measures.

156. The capacity of the type facilities is in the moment insufficient and ineffective in youth crime control. So far 30 places have been open for the whole of the Slovak Republic, however, it would be meaningful to open another centre in the eastern part of Slovakia.

157. The Re-education Home for Youth, in Hlohovec moved into a reconstructed building adjusted to this purpose with very good psychological hygiene parameters. The qualification of the staff improved (two teachers and two educators were hired). Two psychologists were hired for a half-time job from 1 September 1997. The inmates in this facility have also a possibility to participate in educational workshops.

158. Fugitiveness rate has dropped by more than 50 per cent as a result of the above measures.

159. According to information from regional authorities of the Slovak Republic no case of torture or ill-treatment of children and juveniles placed there was detected in any of these facilities in the period under evaluation. Under Act 282/1998 Coll. on the Prosecution Authority prosecutors are competent to oversee the observance of laws and other generally binding regulations in the place where protective and institutional care are provided upon an order by a state authority. Regular quarterly inspections are made in re-education homes and diagnostic centres.

160. The inmates have access to telephoning either from a coin box or upon request from a handset in all facilities.

161. Depending on the regional conditions of the facilities, social integration of children and juveniles in semi-open facilities in the form of regular school attendance (e.g. the Re-education Home for Children and Re-education Home for Youth in Košice - Horný Bankov) or vocational training in the premises of individual business entities (e.g. the Re-education Home for Youth at Veľké Leváre) have been made possible. The Chalmová Re-education Home for Youth has been functioning in this programme as an open unit.

162. To have more opportunities for culture and sports All-State Sports Games of Re-education Homes for Youth were held in May 1998 and given a financial support of SKK 80,000 from the Ministry of Education of the Slovak Republic. The activities in hobby groups have also developed (e.g. Drama Group at the Sološnica Re-education Home for Youth).

163. No HIV case has been registered until now in these specialized facilities. Preventive examinations at the reception of inmates and their return from leave have, however, been continued. Preventive education in this respect is also included into the educational work in these facilities.

164. In all facilities round-the-clock health care is provided by qualified nurses and/or educators trained in first aid and preventive and therapeutic care and is carried out at regular intervals directly in the individual facility by a specialized doctor for children and youth. Psychological and psychiatric care is provided by professional psychologists or psychiatrists either as outdoor or psychiatric clinic treatment (Pezinok, Veľké Leváre).

165. Representatives at law visits to inmates are allowed on specified days.

166. Letter from the Minister of Education of 7 July 1998 was sent to all heads of regional authorities with a request to allow the re-educational homes to employ (usually as a second job) a doctor-psychiatrist specialized in alcohol and non-alcohol addictions for at least one quarter of a full employment contract.

167. From 1997 the oversight of Prosecution Authority has been expanded from protective education to include also institutional education in places where minors are placed upon a decision made by a state authority. Prosecutors inspect these facilities on a quarterly basis.

E. Restriction of personal liberty of the military serving in the Armed Forces of the Slovak Republic

168. The right to the protection of honour and human dignity is also fully respected in relation to those military who are placed in the military correctional unit. It is the only specialized military unit in the Slovak Republic to serve the sentence of deprivation of liberty imposed on conscripts upon a final decision made by a court when the duration of the sentence is not more than one year. As stated in Ordinance of the Ministry of Defence of the Slovak Republic No. 322/1993 Coll. issuing The Rules for the Conduct of the Sentence of Deprivation of Liberty in the Military Correctional Unit, section 1, paragraph 6 serving of the sentence of deprivation of liberty by the prisoners in the military correctional unit may not degrade human dignity.

F. Prosecutor's and other oversight in places where personal liberty is restricted

169. Prosecutors responsible for oversight pay permanent attention to lawfulness in places where personal freedom is restricted as a part of their regular inspections.

170. Under section 8, paragraph 1 of act No. 314/1996 Coll. on the Prosecution Authority prosecutors oversee that persons in establishments for serving pre-trial detention, sentence of deprivation of liberty, protective curative treatment and institutional curative treatment ordered

by a state body, protective education and institutional education ordered by a state body, police detention cells, garrison prisons and in other establishments designed to enforce decisions on restriction of personal freedom made by state bodies, are held there only upon a decision of a competent body and in full conformity with regulations governing such restrictions of personal freedom. Prosecutors perform checks in these establishments as a part of their inspection powers and they have the duty to immediately release persons held in such establishments without a decision or in contravention of the decision of a competent body, to stop the execution of orders and decisions of the administrations of establishments set out above or their superior bodies, or to repeal orders and decisions of these administrations if they are in conflict with the law or other legal regulations.

171. While performing oversight prosecutors are authorized to visit all establishments at any time, with free entry to all their premises. They have the right to look into documents based upon which persons were deprived of liberty and the right to talk with such persons without the presence of other persons, to review whether orders and decisions by administrations of the establishments are in compliance with the law and other regulations, to ask the employees of the administrations to give necessary explanations and to submit files and decisions concerning restriction of personal freedom. Under the law prosecutors have the duty to carry out regular monthly inspections in the individual remand institutions and establishment for the sentence of deprivation of liberty.

172. Processing of complaints concerning violations of the law (hereinafter "CVL"):

CVL motions	Number of cases in				
	1994	1995	1996	1997	1998
New incidence	1 289	1 737	1 112	961	759
Totally processed	1 226	1 737	1 112	961	759
Tabled	1 030	1 043	892	746	617
CVL filed by Prosecutor General, out of them	130	546	103	96	75
1/ first motion:	126	536	99	95	74
2/ repeated motion	4	10	4	1	1
A/ to the detriment of the accused	76	501	69	61	49
B/ in favour of the accused	45	40	25	31	21

173. Complaints filed with the Supreme Court of the Slovak Republic:

Type of processing	1994	1995	1996	1997	1998
Fully satisfied	78	511	77	75	57
Partially satisfied	22	9	4	5	3
CVL rejected	11	12	15	10	7
CVL withdrawal	3	9	0	0	0
Processed in another way	92	144	111	119	67
Case returned to the 1st instance court	17	35	16	24	14
Case returned to the 2nd instance court	4	1	8	3	3
Case returned to the prosecutor	37	33	24	24	11
Case returned to the investigator	10	21	21	14	18
Supreme Court decided in the case	11	11	11	377	27
Academic CVL	2	0	2	1	0
Other decision	3	7	0	0	0

Source: the Prosecution General Authority of the Slovak Republic.

174. The law, which also regulates civil control in places of personal liberty restriction, is conducted by the bodies of the National Council of the Slovak Republic, Minister of Justice of the Slovak Republic and persons authorized by him and Director General of the Corps of Prison and Court Guard of the Slovak Republic and persons authorized by him.

175. The Slovak Republic is also a State party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987 (the text of the Convention is published under No. 26/1995 in the Collection of Laws of the Slovak Republic). The Convention came into effect in the Slovak Republic on 1 September 1994. In compliance with Article 1 of this Convention the European Committee for the Prevention of Torture (CPT) carried out a regular mission to the Slovak Republic in 1995 and visited establishments where persons with restricted liberty are placed. The results gained during the 14-day visit of the delegation to the establishments and facilities of the Ministry of the Interior, Ministry of Justice and Ministry of Education were summarized in a "Final Report" addressed to the Government of the Slovak Republic.

176. In compliance with the European Committee for the Prevention of Torture, detained persons have the address of this inspection body, United Nations Committee against Torture, readily available with an instruction that it is an institution to which applications, petitions or complaints may be addressed in case the detained persons object to a violation of their rights. In April 1997 the European CPT received a complaint by a person from the correctional institution of Banská Bystrica - Kráľová concerning the duty of detained persons to participate in one hour exercise in fresh air daily. Subsequently, the CPT was informed that the exercise of prisoners not allocated to work is in full compliance with the legislation as well as the requirements for mental hygiene of prisoners. The prison service has no information on other complaints filed or other petitions filed with the European CPT since then. According to the information from the Inspection of the General Directorate of the Corps of Prison and Court Guard of the Slovak Republic a total of 312 complaints was filed with the competent bodies of the Corps of Prison and Court Guard from 1 January 1999 to 30 November 1999 (which is an increase by 37 against the same period of 1998). Out of these, 16 complaints concerned the treatment of detained persons by prison staff; 14 complaints were seen as unjustified and 2 complaints are currently under review.

177. In 1998 a total of 285 complaints was filed, 15 of them concerned treatment of detained persons by the prison staff.

178. In March 1998 a first working meeting between the representatives of the General Directorate of the Corps of Prison and Court Guard of the Slovak Republic and NGOs took place. After mutual exchange of information about the results of their respective work, the achievements and continuing challenges, all participants underlined the usefulness of such contacts. Its follow-up was continued in the form of visits to establishments and they were also given the possibility of direct contact with the prisoners. Institutions attended included the Hospital for Accused and Sentenced in Trenčín, the Correctional Institution of Ilava and Nitra - Chrenová, the remand Institution in Nitra and the Secondary School of the Corps of Prison and Court Guard of the Slovak Republic as well as the professional training centre in Nitra. In addition, an expert consultation in the solution of a concrete problem for which a convict contacted an NGO was provided in 1999.

179. The organizational structure of the General Directorate of the Corps of Prison and Court Guard of the Slovak Republic shows that the Director General has a department of inspection which, inter alia, is also commissioned to monitor and verify applications, petitions and complaints filed by persons serving their sentence of deprivation of liberty and/or applications, petitions and complaints filed by persons in remand custody. One of the activities carried out by the institution is also the verification of complaints concerning the forms and methods of treatment of persons with restricted liberty by the prison staff. According to available statistics state authorities of the Slovak Republic do not register any case of individual complaint filed by a citizen of the Slovak Republic under article 22 of the Convention with the Committee against Torture on the grounds of ill-treatment by the bodies of the Slovak Republic.

Article 7: Providing for criminal prosecution of a perpetrator of crimes referred to in article 4

180. Provisions of article 7 correspond to section 2, paragraph 3 of the Code of Criminal Procedure in the legal system of the Slovak Republic under which "the prosecutors shall have the duty to prosecute all criminal offences of which they gained knowledge; exceptions shall only be admissible under a law or a promulgated international treaty". Under section 10 of the Code of Criminal Procedure the exemptions apply to persons granted privileges and immunities under domestic or international law. Under section 163a of the Code of Criminal Procedure criminal prosecution of certain enumerated crimes may be opened and opened criminal prosecution may be continued only upon the consent of the injured party; e.g. the crime of defamation, the threat of spreading venereal disease, extortion, and other crimes. Based on this when the competent body of the Slovak Republic decides that a perpetrator of a certain crime whose extradition is requested by another country shall not be extradited and the act constitutes a crime under the legal order of the Slovak Republic, the investigator or tracing agency initiate prosecution in compliance with the Code of Criminal Procedure of the Slovak Republic.

181. The legal order of the Slovak Republic guarantees, in compliance with article 7, paragraph 3 of the Convention, that any person regarding whom proceedings are brought against shall be guaranteed fair treatment at all stages of the proceedings. The basic framework is given in the Constitution which in article 46 stipulates that every person may claim his or her right by procedures established by law at an independent and impartial court of law or other public authority of the Slovak Republic in cases specified by law. All parties are equal in proceedings before these bodies.

Article 8: Extradition of perpetrators of criminal offences

182. The Slovak Republic as a result of succession is a State party to the European Convention on Extradition (negotiated on 13 December 1957) which was signed on behalf of the former CSFR in Strasbourg on 13 February 1992. The text of the Convention was published in the Collection of Laws of the Slovak Republic under No. 549/1992. The Slovak Republic is also bound by the two additional protocols to this Convention: the Additional Protocol to the European Convention on Extradition of 15 October 1975 (the text was published in the Collection of Laws of the Slovak Republic under No. 10/1997 Coll.) and the Second Additional Protocol to the European Convention on Extradition of 17 March 1978 (the text was published in

the Collection of Laws of the Slovak Republic under No. 11/1997 Coll.). In addition to the above Convention and its additional protocols the Slovak Republic is also bound by many bilateral agreements regulating the issues of extradition which have, under section 375, paragraph 1 of the Penal Code taken precedence over the provisions of Chapter 24. Offenders may also be extradited on the basis of requests of an international court established under an international treaty binding for the Slovak Republic or a decision by an international organization which is binding for the Slovak Republic.

183. Pursuant to article 1 of that document the Slovak Republic has undertaken to extradite all persons against whom the relevant bodies of the requesting party prosecute for a crime or who are requested by these bodies to serve their sentence or protective measure.

184. Chapter XXIV of the Code of Criminal Procedure, section 379 to 383, regulates the extradition of persons staying in the territory of the Slovak Republic abroad. In case a prosecutor receives a foreign country's request for extradition or when he learns about a criminal offence for which a foreign country could request extradition the prosecutor shall carry out preliminary investigation. The purpose of preliminary investigation is to determine whether there are conditions for extradition existing, and, mainly, whether the act constitutes a crime under the legislation of both countries for which extradition is admissible and which culpability did not expire. Thus, in preliminary investigation the prosecutor like a court deciding on the admissibility of extradition does not have to decide on the guilt for the particular crime of the accused person who should be extradited. However, the act must be clarified sufficiently to allow subsuming under certain provisions of the valid Slovak Penal Code. After concluding preliminary investigation a court shall decide on the admissibility of extradition upon a motion filed by the prosecutor.

185. Provided the person under extradition procedure agrees with the extradition the so-called summary extradition procedure regulated in section 379a of the Code of Criminal Procedure may be applied. When the concerned person expresses consent with extradition during the preliminary investigation the prosecutor submits the case to the Ministry of Justice with a motion for decision, after concluding preliminary investigation. The person concerned may revoke his/her consent with extradition anytime till the decision by the Minister and then the case is submitted to a court for decision.

186. Upon a request by the bodies of a foreign country a prosecutor conducting preliminary investigation may issue an apprehension warrant to the police bodies for the concerned person and in doing so he is not limited to the reasons of detention set out in section 67 of the Code of Criminal Procedure of the Slovak Republic. If the prosecutor does not release the apprehended person within 24 hours from the apprehension he files a motion for preliminary custody with a court in this period of time. The apprehension of a person does not initiate the effects of criminal prosecution under section 160, paragraph 1 of the Code of Criminal Procedure. The court shall decide not later than 24 hours after the apprehended person was brought before the court on the motion for preliminary custody of the apprehended person. If this does not happen, the apprehended person must be released. Preliminary custody must not last more than 40 days. This term is defined directly by article 16 of the European Convention on Extradition binding upon the Slovak Republic (Notice No. 549/1992 Coll.).

187. In compliance with this international instrument extradition shall not be permitted if the crime on the grounds of which extradition is requested is, in the Slovak Republic, which is the requested party, classified as a political crime or an offence related to a political crime. The same procedure is followed also in cases when the requested party has serious reasons to believe that the extradition request was filed in order to prosecute or punish the person concerned on the grounds of his/her race, religion, ethnic origin or political opinions (article 3 of the Convention). Similarly, if the legal order of the requesting party envisages also the death penalty for the crime concerned the Slovak Republic shall refuse to extradite the offender because the legal order of the Slovak Republic does not permit the death penalty.

188. The Minister of Justice permits extradition to a foreign country provided a court ruled that extradition is admissible. If the court decides that the offender shall not be extradited to a foreign country for certain reasons and the act concerned is a crime punishable under the legal order of the Slovak Republic, the investigator or tracing agency initiate prosecution in compliance with the Code of Criminal Procedure of the Slovak Republic. This gives rise to the jurisdiction of Slovak judicial bodies. If the detected facts sufficiently justify the conclusion that a concrete person committed the crime concerned the investigator shall immediately issue a resolution on filing charges and the person concerned shall be prosecuted as an accused. However, the sentence imposed must not be stricter than the sentence stipulated in laws of the country on the territory of which the crime was committed.

189. Number of extraditions to a foreign country:

Requesting country	1994	1995	1996	1997	1998
Czech Republic	3	8	12	8	16
Austria	2	7	6	5	4
FRY	-	1	-	-	3
Hungary	-	-	-	-	3
FRG	3	5	1	2	2
Romania	-	-	-	-	1
Italy	-	1	-	-	1
Russian Federation	-	-	-	1	-
Ukraine	-	-	2	-	-
Switzerland	1	-	1	-	-
Poland	-	1	-	-	-
Spain	1	-	-	-	-
Croatia	1	-	-	-	-

Source: Prosecution General Authority of the Slovak Republic.

190. Extradition is subject to certain principles (the principle of inadmissibility of extradition of own nationals to a foreign country, the principle of reciprocity, culpability under both systems, admissibility of extradition only upon foreign country's request, the principle of extradition inadmissibility if there are serious grounds to believe that such a person would be in the territory of another country under the threat of torture or other cruel, inhuman or degrading treatment or punishment and the principle of specialty).

191. When the accused stays abroad the Presiding Judge of Panel issues a warrant of arrest for that person and based on it asks the Ministry of Justice for other measures. In pre-trial proceedings this shall be done upon prosecutor's motion. An accused extradited by a foreign country shall be taken into custody by police bodies and immediately brought before the Presiding Judge of Panel who issued the warrant of arrest. If the extradition is not effected to enforce a sentence the Presiding Judge of Panel has the duty to hear the accused within 24 hours and rule on detention. If the accused was extradited by a foreign country with a reservation, i.e. the consent with extradition is linked with the satisfaction of certain conditions, the reservation must be satisfied. The accused can be prosecuted only for criminal offences which present the grounds for extradition except when an additional consent with criminal prosecution for other criminal offences was given.

192. Number of requests from a foreign country by the Slovak Republic:

Requested country	1994	1995	1996	1997	1998
Czech Republic	3	8	9	12	17
Italy	-	-	-	1	2
Switzerland	1	-	-	-	2
FRG	3	1	1	3	1
Hungary	-	-	-	-	1
Greece	-	-	-	-	1
USA	-	1	3	-	1
Spain	1	1	-	1	-
FRY	-	-	-	1	1
Sweden	-	-	2	-	-
Portugal	-	-	2	-	-
Brazil	-	-	1	-	-
Austria	2	1	1	-	-
Monaco	-	-	1	-	-
Canada	-	1	-	-	-
France	-	1	-	-	-
Croatia	1	-	-	-	-

Source: Prosecution General Authority of the Slovak Republic.

Article 9: Assistance in connection with criminal proceedings

193. The legal order of the Slovak Republic includes also the European Convention on Mutual Assistance in Criminal Matters (negotiated on 20 April 1959) published in the Collection of Laws under No. 550/1992 Coll. The Slovak Republic is also a State Party to the Additional Protocol to this Convention which was negotiated on 17 March 1978 (published under No. 12/1997 Coll.). In addition to the above instruments the Slovak Republic is also bound by many bilateral agreements. Cooperation of the Slovak Republic with other countries is regulated in Chapter 24 of the Code of Criminal Procedure - "Legal Contacts with Foreign Countries". Its provisions are applied unless a promulgated international treaty stipulates another procedure.

Legal contacts with foreign countries include extradition procedure, transfer of prosecution or a criminal case to a foreign country, taking-over prosecution or a criminal case from a foreign country, letters rogatory to and from a foreign country in criminal cases through the execution of procedural acts, including delivery of written documents, taking over the perpetrator from a foreign country by the Slovak Republic for the purpose of serving sentence imposed in a foreign country and vice versa on the basis of an international agreement or convention, etc.

Taking custody of a person from a foreign country

194. In order to perform a procedural act in the territory of the Slovak Republic or if the presence to serve as a witness or for confrontation of the person concerned is necessary and the person concerned is abroad, it may be ruled that this person will be temporarily delivered to the territory of the Slovak Republic. In such case the judge and in pre-trial proceedings the prosecutor can decide on the placement of the person concerned into custody which starts with the day on which the person was taken over. The person temporarily transferred by a foreign country shall be taken over by the bodies of the Corps of Prison and Court Guard. After the performance of necessary procedural acts, however, the latest on the day determined by the foreign country, the person concerned shall be returned to the requested country. Provisions regulating this procedure are stipulated in section 383d of the Code of Criminal Procedure.

Transfer of an accused to a foreign country

195. Upon a request by a foreign country an accused foreigner or a stateless accused person in detention or serving a sentence of deprivation of liberty may be temporarily transferred to the territory of a foreign country in order to give testimony or for confrontation (section 383e of the Code of Criminal Procedure). Such a person may only be transferred provided the accused person agrees with it, in his/her absence the purpose of detention or execution of sentence of deprivation of liberty will not change and the temporary transfer will not prolong inappropriately the duration of detention or serving the sentence of deprivation of liberty served in the territory of the Slovak Republic. The body which decided on the temporary transfer shall at the same time determine the appropriate time limit in which this concerned person must be returned to the territory of the Slovak Republic and this term must not be longer than 30 days. In the territory of the foreign country the person transferred must stay in detention. The same shall also apply when the person concerned is escorted over the territory of a third country. The time spent in detention abroad is not included into the duration of remand custody, however, it is included into the serving of the sentence of deprivation of liberty served in the territory of the Slovak Republic.

Letters rogatory

196. Upon a request by a foreign country's body it is possible to conduct a house search or personal search, seizure of item or another procedural act of legal assistance in order to provide for evidence for criminal proceedings held in the territory of a foreign country. The court may upon a request by a foreign body decide on preliminary seizure of assets or part of the assets of a person prosecuted in a foreign country under conditions stipulated in an international treaty binding for the Slovak Republic. When transferring the seized items the pertinent body shall request the foreign country to return the item. However, this right may also be explicitly waived.

Article 10: Incorporation of information regarding the prohibition of torture into training materials

197. The Slovak Republic has, in compliance with article 10 of the Convention, included materials and information concerning the prohibition of torture into the training of all persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

A. Incorporation of information regarding the prohibition of torture in training materials of the members of the Police Corps

198. As already stated the basic piece of legislation regulating the work of the Police Corps is Act No. 171/1993 Coll. on the Police Corps. In its work the Police Corps follows the Constitution, statutes, laws and other generally binding regulations (sect. 1). While on duty the policeman is obliged to regard the honour, respect and dignity of the person and his own and shall not allow any unreasonable detriment to be caused to the person in the context of his work and any necessary interference with his rights and freedoms not to exceed the scope necessary to achieve the purpose of his official activity. Under Act No. 73/1998 Coll. on civil service of the members of the Police Corps, Slovak Intelligence Service, the Corps of Prison and Court Guard of the Slovak Republic and the Railway Police a policeman is obliged to act in such a way as not to cause any damage to health.

199. While fulfilling the tasks resulting from Act No. 171/1993 Coll. on the Police Corps as well as from other legislation regulating their work the bodies of the Police Corps pay due attention to the professional training of students at secondary schools of the Police Corps, Academy of the Police Corps and also practical work of the members of this armed security corps in the field of observance of human rights.

200. The education process at schools under the Ministry of the Interior of the Slovak Republic fully reflects the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Provisions of this international instrument are incorporated in the subject of the Criminal Law which makes it possible to sanction failure by agencies active in criminal proceedings to observe lawful procedures. Act No. 73/1998 Coll. on civil service of the members of the Police Corps, Slovak Intelligence Service, the Corps of Prison and Court Guard of the Slovak Republic and the Railway Police stipulates sanctions for unlawful practices by the police.

201. The subject Police Work Ethics and Psychology applies the Convention in several topics:

- ethical standards of police work;
- application of policeman's moral qualities at work and at home;
- the personality of a manager and ethical aspects of management;
- ethical aspects of communication;
- coping with stressful situations in concrete fields of police work.

202. The Academy of the Police Corps supported by the Presidium of the Police Corps organizes lectures and seminars on human rights issues as a part of policeman's practical work. In 1995 the Department of Education and Psychology of the section for Personnel and Social Affairs of the Ministry of the Interior of the Slovak Republic elaborated The Code of Conduct of a Member of the Police Corps in compliance with the provisions of the Convention. This Code of Conduct serves as a starting point for the education of the members of this body to the observance of laws and provisions of the Convention.

203. In the inspection of the first contact service attention is paid to the observance of the provisions of the Police Corps Act including the knowledge, conditions and way of use of coercive means, i.e. knowledge policemen learned during their studies in vocational schools of the Police Corps. The inspection of individual police activities is included into the planning documentation of the Police Corps units, and it is well elaborated in the field of public order police work. The Department of Public Order Police of the Presidium of the Police Corps pays increased attention to district departments the members of which are on the front line of the first contact with citizens and perpetrators of various crimes.

204. The Ministry of the Interior of the Slovak Republic and the Police Corps pay due attention to the issues concerning respect for human rights in the work of the Police Corps. In recent years the quality of work shows significant improvements in the field of legislation, material and technical equipment as well as in education.

B. Incorporation of information regarding prohibition of torture in the Armed Forces of the Slovak Republic

205. International military and humanitarian law is taught to students of military academies in the Slovak Republic. The Training Base of Peace Forces was established in Nitra for military to fulfil tasks in international peacekeeping missions. There they are trained to duly perform the tasks in international peacekeeping missions.

206. During training the students learn theory and practice of treatment of combatants, prisoners of war and civilian population of the enemy during armed conflicts. The idea of prohibition of torture and other cruel, inhuman or degrading treatment and punishment of such persons is emphasized in the whole training process. Violations of this duty are sanctioned in compliance with the provisions of the Penal Code which includes crimes of use of prohibited means of warfare and unlawful combat practices (sect. 262), war atrocities (sect. 263), persecution of the population (sect. 263a) and plundering in the war operations theatre (sect. 264). The legislation on these crimes is derived mainly from international conventions regulating conduct of battle procedures.

207. In the Armed Forces of the Slovak Republic, article 10 of the Convention is also of relevance for the staff of the Military Correctional Unit, Supervisory Bodies, order patrols, Military Police as well as all commanders and senior staff who have the duty to see that their subordinates know their rights and duties (e.g. according to the Basic Rules military commanders must test guard patrols).

208. The military correctional unit staff is briefed on Ordinance of the Ministry of Defence of the Slovak Republic No. 322/1993; 14522 issuing the Rules for Serving the Sentence of Deprivation of Liberty in the Military Correctional Unit. This regulation is the basic legal norm on the relation of the institution staff and the persons placed there.

209. The Armed Forces of the Slovak Republic personnel is attending lectures in the course called Education to Patriotism and Ethics which is a specific form of education. The topics for the relevant year are defined by the superior units and they also include legal issues. In addition, each person holding a managerial position is obliged to know legislation relevant for their competencies and to instruct their subordinates in this spirit.

C. Incorporation of information regarding prohibition of torture in training materials of the members of the Corps of Prison and Court Guard of the Slovak Republic

210. Training of the Corps of Prison and Court Guard staff in the field of human rights observance starts at the lowest management levels - the units of the establishments under the Corps of Prison and Court Guard and it goes throughout the system up to a broad training detailed in the updated Education and Training Policy for the Staff of the Corps of the Prison and Court Guard of the Slovak Republic.

211. While attending the basic training course during his/her preliminary term a staff member listens to lectures focusing on treatment of prisoners (12 hours), basic theory of social communication (2 hours) practical training of basic communication skills (22 hours). In the practical training for the job which is carried out during the test period in the parent establishment the prison officers are working on the improvement of their communication skills with the assistance of experienced instructors. During service life these skills are further improved in community sessions of educators with the prisoners which are also attended by junior officers of the Corps of Prison and Court Guard of the Slovak Republic. The issues of human rights observance is paid appropriate attention also in professional training courses and working meetings of the individual service department that work with the sentenced and detained persons.

212. In the course of basic education and the subject Management and Organization of the Prison System, and in the course of specialized professional training and the subject Prison Organizations and Systems in Foreign Countries the staff of the Corps of Prison and Court Guard of the Slovak Republic learn about the activities of international prison organizations including the European CPT. These subjects also deal with the issues of human rights - as illustration the activities of the worldwide independent Amnesty International movement and Penal Reform International are used. The curricula on human rights observance draw from manuals issued by the Royal University London and the publication Human Rights in Prison issued by the Council of Europe.

213. Special attention is paid to the forms and methods of treatment with persons in remand custody and persons sentenced to the deprivation of liberty by prison staff. Activities organized in correctional institutions are carried out in such a way as not to frustrate the purpose of remand custody or the sentence of the deprivation of liberty. The assistance of chaplain service is a clear contribution to the treatment of imprisoned persons, especially in the field of culture and

education. However, experience from establishments also shows problems related to the disinterest of inmates in pastoral activities and negative attitude of some inmates to these activities in the establishments.

214. The implementation of this approach had a positive impact on the processing of complaints, petitions and communications by detained persons and/or their family members concerning the forms and methods of treatment of these persons. The Slovak Republic which is a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment respects the right of its citizens to address the Committee against Torture with complaints in case these persons object to violation of their rights guaranteed under the law and this Convention.

D. Incorporation of information regarding prohibition of torture in training materials of medical staff and the staff of special educational establishments

215. The duties of persons providing health care are regulated in Act of the National Council of the Slovak Republic No. 277/1994 Coll. on health care. Provisions of section 6 stipulate that the person concerned has the right to respect his/her physical and mental integrity (para. 2, letter a) and to palliation of suffering in compliance with the state of the art of medical and biomedical sciences, to humane care and ethical and dignified approach of medical staff and other persons working in the health-care sector and this right should be observed by the concerned staff.

216. Training material and information for health-care staff include recommendations as to preferred methods not causing pain to patients. At the same time all doctors already at the time of starting their studies at the faculty of medicine undertake the Hippocratic oath which bounds them "to never cause harm" and this oath may be considered a general instruction to all medical doctors.

217. Lack of trained staff especially for the positions of therapeutic pedagogues and psychologists has been a persistent problem in special establishments. The capacities of these facilities have been fully occupied and the need to open new facilities, in particular re-educational children's homes has emerged. The inappropriate location of facilities not allowing social integration of children and youth staying in them is also a continuing difficulty. All facilities have a state-wide competence and their distribution is uneven.

218. Professional training of pedagogic staff and psychologists working in specialized establishments under the Ministry of Education of the Slovak Republic is provided through methodological centres (specialized qualification studies according to Decree of the Ministry of Education of the Slovak Republic No. 42/1996 Coll. on continuing education of pedagogic staff) or faculties of pedagogy (additional studies of special pedagogy). Currently, a new project of specialized innovative studies "Training in Group Psychotherapy and Team Work with Youth" which should be carried out by MC Banská Bystrica in cooperation with the Faculty of Pedagogy of Comenius University Bratislava is in the approval procedure.

219. Another step concerning all special educational facilities is the project Education of Children and Youth in Foster Care to Human and Civil Rights adopted by Resolution of the Government of the Slovak Republic No. 97 of 4 February 1997 which aims at the education of children in foster care to human and political rights.

E. Incorporation of information regarding prohibition of torture in curricula at schools

220. The Ministry of Education of the Slovak Republic included the subject of ethics as an alternative to religion classes into the syllabi of basic and secondary schools. The objective of both subjects is, inter alia, to develop in the pupils and students acceptance of other persons, cooperation with them, as well as pro-social values and related behaviour. Curricula are prepared in compliance with this objective and they step by step guide the pupils and students to identification with these attitudes and their subsequent application in concrete areas of life using experience based on psychological and teaching methods. Dialogue and partnership are important components of the education of ethics. Environmental education covered by several subjects brings also a positive educational effect. In out-of-school activities several environmental movements (the Tree of Life, and others) are involved in it.

221. Some topics concerning human rights and education to citizenship are covered by the subjects Civics and Society. In terms of the aims and content this education is a new element in education and training and therefore there are several projects for its implementation - Department for Human Rights has been opened at Comenius University in Bratislava and it provides re-skilling training to secondary school teachers in human rights, another project called Human Rights at School is targeted to teachers at basic and secondary schools and it should provide basic information on the methods of human rights instruction, the UNESCO supported project Youth for Tolerance focuses on youth at all types of schools. In 1994 the first publication, ALIEN, was issued. It deals with racism and intolerance and it is addressed to youth mainly. Calendar of Events Organized by the Youth Council of Slovakia, Children and Youth International Exchange Centre and other youth organizations was prepared as a part of the activities carried out in Year 1995 - the International Tolerance Year.

Article 11: Interrogation rules, methods, instructions and practices

222. Under section 9, paragraph 3 of Act No. 171/1993 Coll. on the Police Corps an action by a member of the Police Corp is the activity carried out in the limits of the law and stipulated in the law, in which direct intervention into fundamental rights and freedoms of a person is made. While on duty the policeman is obliged to regard the honour, respect and dignity of the person concerned and shall not allow any unreasonable detriment to be caused to the person in the context of his work and any necessary interference with his rights and freedoms not to exceed the scope necessary to achieve the purpose of his official activity. At the same time the policeman has the duty to instruct the person concerned on his/her rights as soon as possible.

223. Section 2, paragraph 4 of the Code of Criminal Procedure of the Slovak Republic stipulating the obligation of the bodies active in criminal proceedings "to consistently observe civil rights guaranteed by the Constitution" also regulates the procedures carried out by a police body. Under section 158, paragraph 4, 6 of the Code of Criminal Procedure a police body shall conduct examination of a witness only when it is an exigent or unrepeatable act. In this act the relevant provisions of the Code of Criminal Procedure, the Police Corps Act, Act of the Slovak National Council No. 372/1990 Coll. on misdemeanours as amended and the provisions of Ordinance of the Minister of the Interior of the Slovak Republic No. 66/1994 regulating the procedure by the bodies of the Police Corps in criminal procedure, shall be followed.

224. Under section 17 of the Police Corps Act a policeman is authorized to ask "explanation from a person who might contribute to the clarification of facts important for the clarification of the crime or misdemeanour". While doing so the policeman has the duty to follow the Constitution, statutes and other generally binding regulations.

225. Pursuant to article 16 of Ordinance of the Ministry of the Interior of the Slovak Republic No. 66/1994 a policeman is authorized to ask explanation in order to verify a communication of facts alleging that a crime was committed. He shall make official minutes on the content of the explanation. Police body is also competent to carry out acts commissioned to investigators which are necessary for the clarification of the case or identification of the perpetrator. The policeman shall take minutes on each act of criminal procedure pursuant to section 55 of the Code of Criminal Procedure which also states the general conditions of its content. The minutes are signed by the recorder or so-called neutral person whose signature guarantees that the act was performed in compliance with the law.

226. The tactical procedure by the police body during examination of the person, taking the minutes and records is not institutionally regulated in the Slovak Republic. It is based on recommendations of criminalistic tactics which elaborate the procedure in individual acts of criminal procedure.

227. While performing procedural acts the investigators of the Police Corps are bound mainly by the Code of Criminal Procedure. Internal rules regulating the procedure during examination are based on basic principles of criminal procedure. This applies mainly to the Instruction for Police Corps Investigators. Its provisions take into account all relevant regulations concerning the procedure by police bodies in criminal proceedings.

228. The section of Investigation and Criminalistic Expertise of the Police Corps of the Ministry of the Interior of the Slovak Republic covers criminal offences committed by the police. The statistics of this crime shows that 33 policemen were prosecuted for the crime of abuse of authority in the first half of 1999. Out of them 12 for inappropriate conduct during examination (mainly exacting confession from the examined person that he/she committed the alleged crime). Exacting of confession is either having the form of physical (most frequent) or mental (sporadical) violence. In sufficiently documented cases charges for the crime of abuse of authority were filed and five cases resulted in filing accusation.

229. The section of Control and Inspection Service of the Ministry of the Interior of the Slovak Republic registered totally 267 cases alleging abuse of authority in 1999.

Article 12: Prompt and impartial investigation

230. Prosecutor, investigator and police body which is the body of the Police Corps commissioned under section 5 of Act of the National Council of the Slovak Republic No. 171/1993 Coll. are competent to verify communications of facts indicating that a crime was committed. Police bodies are obliged to take all measures to expose criminal offences and identify their perpetrators. They also have the duty to take measures necessary for crime prevention. The officiality principle applies, thus, to all agencies active in criminal procedure, i.e. these bodies have the duty to carry out all acts of criminal procedure on the basis of their official duties.

231. Ordinance of Minister of the Interior No. 66/1994 includes a detailed regulation of procedures by the bodies of the Police Corps.

232. Act 277/1994 Coll. on health care as amended, section 6 imposes on health-care facilities the duty to immediately inform the prosecutor, investigator or police body the following facts:

(a) Perfected suicides, attempted suicides when there is a serious reason to believe that another person might have participated in the damage to health or death;

(b) Admission of a sick person whose identity cannot be established and who is injured with a shot or another gun;

(c) Suspicion of child ill-treatment or abuse or the same in a person who has no legal capacity has been restricted. This act imposes upon health-care personnel the obligation to cooperate with other involved ministries and central authorities of state administration in the protection of human rights.

Article 13: The right to complain to responsible bodies of the Slovak Republic

233. The procedure for filing, receiving, registering, processing and verifying of processing of complaints filed by natural persons and legal entities is regulated under Act of the National Council of the Slovak Republic No. 152/1998 Coll. on complaints. Article 13 of the Convention is reflected in the provisions of this act.

234. Under the legal order of the Slovak Republic a complaint is understood as a motion filed by a natural person or a legal entity who claims the protection of their rights or interests protected by law in case these were violated or threatened by the activity or inactivity of a public administration body. Complaint may also point out concrete deficiencies, in particular violations of regulations the remedy of which requires intervention by a public administration body (section 3 of the act on complaints).

235. All public administration bodies have the obligation to receive complaints. The head of the concerned public administration body is competent to process complaints. When the complaint is directed against the head of this body then the immediate superior body shall process it. Neither the person against which the complaint is directed nor a subordinate of that person may handle or examine the complaint. The relevant public administration body has the duty to examine the complaint and process it within 30 days from its delivery. The result of complaint examination is reported to the applicant in writing. Internal regulations of individual public administration bodies regulate complaint examination.

236. Under section 6 of the act on complaints filing a complaint shall not initiate or become the reason for deriving conclusions that would cause the applicant any damage.

237. When the applicant requests confidentiality of his identity or when the secrecy is in the interest of due processing of the complaint, only a transcript without data allowing identification of the applicant shall be used in the examination. Every person which takes part in the processing of

the case and which knows the identity of the applicant has the duty to observe the confidentiality of that fact. If the applicant requested confidentiality of his identity but the nature of the complaint does not make the examination without giving some of his identity data possible the pertinent body has the obligation to inform the applicant of this fact immediately. Complaint processing shall be continued only when the applicant gives his consent with the disclosure of the necessary identity data in writing within the specified time limit.

238. A complaint in which the applicant does not state his name, surname and address is considered an anonymous complaint. Anonymous complaint is processed only when there are concrete data indicating that a certain regulation was violated.

Article 14: The right to fair and adequate compensation

239. Under article 46 of the Constitution any person may claim his or her right at an independent and impartial court and in cases stipulated by law at another body of the Slovak Republic.

240. The right of persons exposed to torture to fair and adequate compensation is regulated in Act of the National Council of the Slovak Republic No. 255/1998 Coll. on compensation of persons suffering damage caused by criminal offences. This law also regulates financial redress of persons who suffered damage to their health as a consequence of intentional violent criminal offences.

241. The injured person who is a citizen of the Slovak Republic or a stateless person permitted permanent residence in the territory of the Slovak Republic may ask for compensation if the damage occurred in the territory of the Slovak Republic. Damages are not granted only when the damage to health has been fully compensated in another way. Compensation is given upon an application filed by the injured person with the Ministry of Justice of the Slovak Republic.

242. Under Act No. 255/1998 Coll., survivors of the person who died as a consequence of the crime and who was giving or was obliged to give subsistence to them are also injured persons.

243. The legal order of the Slovak Republic guarantees every person who became a victim of torture provision of comprehensive health care including medication and medical aids in compliance with Act of the National Council of the Slovak Republic No. 277/1994 Coll. on health care as amended. Every person which is receiving such health care has the right to treatment and therapy according to the kind and level of disablement. Every health-care facility has the obligation to provide without delay medical care to everyone who is in a condition of serious risk to life, of serious symptoms of health disorder, of shock, or unconscious and arrange further health care as appropriate.

Article 15: Prevention of torture in evidence taking

244. Under the valid Slovak penal law a procedural act through which the bodies active in criminal procedure acquire knowledge important to clarify the facts which are the subject of evidence taking is evidence.

245. The evidence taking procedure is regulated under section 89 of the Code of Criminal Procedure of the Slovak Republic under which anything that may contribute to clarifying the case can be used as evidence, especially statements by the accused, witnesses, experts, expert opinions, objects and documents relevant for criminal proceedings, recognisance, and other.

246. Under section 89, paragraph 4 evidence obtained by means of unlawful duress or threat of duress cannot be used in the proceedings with the exception of the case when it is to be used as evidence against a person who has used duress or threat of duress. Thus, the legislator stipulated, in compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the inadmissibility of such evidence in criminal procedure that was taken or acquired in an unlawful way. Examination of a witness under conditions intentionally created as to have a negative impact on his mental status, e.g. an interview after a long-lasting escort or held with several examiners long hours also at night is a not allowed duress and may therefore be a serious fault of the interview which based on the above explanation is, thus, as evidence absolutely invalid.

Article 16: Measures to prevent other acts of cruel, inhuman or degrading treatment or punishment

247. The legal order of the Slovak Republic and its application in practice guarantee that in the territory under the jurisdiction of the Slovak Republic human rights and fundamental freedoms shall be fully respected. Constitution, statutes and other relevant legislation derived from the fundamental law of the State guarantee that in the territory of the Slovak Republic no person shall be exposed to torture or other forms or other acts of torture or other cruel, inhuman or degrading treatment or punishment. Cases of failure to observe or of violations of human rights are qualified as criminal offences and sanctioned in compliance with the relevant provisions of the Penal Code and Code of Criminal Procedure of the Slovak Republic.

V. CONCLUSIONS

248. Committed to its Programme Declaration the Government of the Slovak Republic understands under a democratic State with the rule of law such a State which gives all its citizens equal access to the rights and duties guaranteed by the Constitution and ratified international human rights conventions, its legal order and its application. The Government is interested to create a legal framework that will make creating space for all and any form of torture and other cruel, inhuman or degrading treatment or punishment impossible.

249. Basic laws concerning the prevention of torture and other cruel, inhuman or degrading treatment or punishment have been adopted under the former CSFR and based on article 152 of the Constitution have remained in effect also in the newly established Slovak Republic. Because most of them were adopted prior to 1989 they do not fully correspond to the new economic, social and political changes. Therefore the amendment procedure of individual relevant pieces of legislation considering international commitments undertaken by the Slovak Republic has been launched.

250. In the international context the Slovak Republic has been appreciated as a country with a democratic standard which honours its commitments undertaken within universal and regional international organizations.

251. Considering the current situation in laws and other measures adopted to prevent torture and other cruel, inhuman or degrading treatment or punishment it may be stated that the Slovak Republic has been paying adequate attention to these issues both at the level of relevant state bodies and at the level of specialized organization.